

STAFFORD COUNTY PLANNING COMMISSION

August 18, 2010

The meeting of the Stafford County Planning Commission of Wednesday, August 18, 2010, was called to order at 6:39 p.m. by Vice-Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Fields, Rhodes, Hazard, Mitchell and Kirkman

MEMBERS ABSENT: Howard and Hirons

STAFF PRESENT: Harvey, Smith, Stinnette, Baker, Zuraf, Stepowany, Bullington, Hess, Johnson, Ansong and Hornung

DECLARATIONS OF DISQUALIFICATION

Mr. Fields: Declarations of disqualification; are there any? Alright, very good then. So we're to the Redevelopment Area Plans. Mr. Harvey?

UNFINISHED BUSINESS

1. Redevelopment Area Plans - Boswell's Corner, Courthouse Road, Southern Gateway and Falmouth Village (Falmouth Village in Committee - Peter Fields and Scott Hirons) **(Deferred at June 16, 2010 Meeting to August 18, 2010)**

Mr. Harvey: Mr. Chairman, we have Mr. Brad Johnson and Kathy Baker here to talk about the changes that have been made to the Plan document. We've tried to address some of the Commissions' concerns about the graphics and I'll turn it over to Brad and Kathy.

Mrs. Baker: Good evening Mr. Chairman and members of the Planning Commission; Kathy Baker with the Planning Department. The memo that you all received attempted to answer some of the questions that were raised at the last meeting which was in June. Mr. Johnson was not here at that meeting to answer those questions so we have put it in a memo form. If you have questions on those, I'm not going to go through each individual question and answer, but if you have questions on those. With regard to the Plan itself, we went through and removed the graphics that you all had requested previously and you received a copy of that. We had also sent it to Mr. Hirons and Mr. Fields in advance just to see if they had any additional comments. So, at that time, we will just open the floor to questions and will be happy to answer anything.

Mr. Fields: Alright. You guys did a good job. I think this is starting to look closer to what I believe the meeting had in mind. Were there any comments from Mr. Hirons regarding this?

Mrs. Baker: I did not receive anything additional from him.

Mr. Fields: I didn't have any additional comments. I thought you did a good job on this. Are there any questions or comments from members of the Planning Commission? Ms. Kirkman?

Ms. Kirkman: Yes, Mr. Chair. I did have some questions regarding the market analyses and I tried to find my copies of those. It's not clear we got that. So, but having attended the meetings regarding

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Boswell's Corner, I believe there were some analysis done of supply and demand, particularly regarding commercial; is that correct? Could you speak to a little bit about that?

Mr. Johnson: Yes ma'am. Brad Johnson, Redevelopment Administrator. You are absolutely correct. There was a market analysis. Originally we had them all set up in different documents and, as we went to press, we decided to let's put these analyses where they belong. So, there's a section in Volume I that talks about the general market analysis that was done and then each of the individual books, Volumes II through V, have an excerpt that relates specifically to that redevelopment area. The one for Falmouth, since a lot of that was rolled into the Southern Gateway analysis, there's probably more discussion in the Southern Gateway piece that talks about that combined redevelopment area. As far as the market analysis goes, was there something in particular that you wanted me to talk about?

Ms. Kirkman: Sure. My concern is that when the market analysis of the demand for, particularly, commercial space was done, we were looking at three areas of intense development. We now have a proposed Comprehensive Plan that has *nine* areas of intensive development and I'm wondering how that those nine areas can be sustained given that we were looking at sustaining three prior to this.

Mr. Johnson: What we did in looking at the commercial analysis is they established a county-wide set of numbers. And then they would go into each redevelopment area and, in the case of Boswell's Corner for example, I believe the absorption in Boswell's Corner was approximately eleven percent of the County's office space, is in Boswell's Corner. And they would apply that to the forecast that was developed. If there had been a particular spike, like in the case of the Courthouse area we have the new hospital, they would adjust that as much as maybe a percent as I recall, but not significantly. In the case of Boswell's Corner, because of the BRAC redeployments coming in, I believe they upped that particular rate to maybe as much as thirty percent of new office might be captured by Boswell's Corner. So, that was a general approach that they took. They looked at what's the share today, what's been the historical share, and then they apply that to the forecast of the growth.

Ms. Kirkman: But that didn't, for instance with Boswell's Corner, that didn't take into account a UDA on Widewater that was directly adjacent to Quantico that has significant commercial space. And I think that proposal actually has a specific complex devoted to contractors.

Mr. Johnson: Yes, that's true. If you have an area that doesn't have a concentration of office, a traditional concentration of office or commercial or retail, and you're developing a new one, then yeah, the analysis that we did wouldn't consider that because it looked at what the existing base was.

Ms. Kirkman: So, given all of that, how do we know that there actually is a demand for the amount of commercial space that's proposed in these nine UDAs?

Mr. Johnson: Kathy may be able to address that better because I haven't been involved that much in the nine.

Ms. Kirkman: Alright. And I'll just add I think it would be helpful to look at the experience of Central Park. When it came about, it was the only commercial development of its type in the area and surrounding counties quickly followed. And I think it would be instructive to get information on what has happened with their commercial revenues there.

Mr. Johnson: Actually maybe Mike can address that.

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Ms. Kirkman: Or whoever, yeah.

Mr. Zuraf: Good evening, Mike Zuraf with the Planning and Zoning Department. Yeah, with the commercial that's recommended within the nine Urban Development Areas, that is not related to a market study. And it's more so related to the amount of commercial that would be...

Ms. Kirkman: Excuse me, Mr. Zuraf. I'm sorry, I'm having a hard time hearing...

Mr. Zuraf: It's more so related to the amount of commercial that's needed in these areas to follow state code guidelines of .4 FAR within the areas that are designated. So, it's not market-driven, it's more so identifying amounts that meet state code requirements.

Ms. Kirkman: So, there's no analysis that supports that this level of commercial is needed in the County or could be utilized in the County?

Mr. Zuraf: I think it's pretty much understood that the amount of commercial exceeds what is likely to happen. But it's in there anyways and it's in there to follow state code guidelines.

Ms. Kirkman: And to what extent does the proposed supply exceed the demand... what the anticipated demand is?

Mr. Zuraf: I would have to get back to you on that.

Ms. Kirkman: Could you? And between you and the Economic Development Office come up with some kind of numbers around that?

Mr. Zuraf: Yeah, sure.

Ms. Kirkman: That seems like something you all would have a pretty good handle on. Thank you.

Mr. Fields: Alright, any other questions about the Falmouth Redevelopment Plan? Okay. Jeff, I believe you said that probably the logical step is for us to forward this to the Board of Supervisors to receive their comments on the changes. And then, if we're sure that we're all reasonably comfortable with the document to take this to public hearing?

Mr. Harvey: That would be my recommendation, yes.

Mr. Fields: Okay. Alright, is there a motion to... do we need a motion to do that? To send it to the Board for their comments?

Mr. Harvey: To make a recommendation? I would think a motion would be in order to make a recommendation.

Mr. Fields: Okay. Nothing wrong with doing motions; we just don't need to be more elaborate than we need to be. Do I hear a motion ask the Board of Supervisors... forward this to the Board of Supervisors for their comments?

Mr. Rhodes: So moved.

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Mr. Fields: Moved by Mr. Rhodes? Second?

Mr. Mitchell: Second.

Mr. Fields: Second by Mr. Mitchell. Any discussion?

Ms. Kirkman: Mr. Chair, when you say this, are you referring to the Master Redevelopment Plan?

Mr. Fields: Stafford County Master Redevelopment Plan, Volume IV, Falmouth Village, October 2009.

Ms. Kirkman: *Only* the Falmouth Village?

Mr. Fields: Only the Falmouth.

Ms. Kirkman: Okay.

Mr. Fields: Because this is the one that we had... this is all from the joint meeting of myself, Mr. Hirons, Mr. Crisp and Ms. Stimpson regarding making substantial changes that makes this look quite a bit different than the other redevelopment plans.

Ms. Kirkman: Okay. I just wanted to clarify that because the memo we got from staff actually addressed issues beyond Falmouth, so I just wanted to make sure that's what (inaudible).

Mr. Fields: My understanding is that we're just looking at the Falmouth Plan and asking for the Board... mostly for Mr. Crisp's and Ms. Stimpson's consensus with the other Board members that this document is okay to move forward with, that this complies with the changes in the direction that we had hoped to make.

Ms. Kirkman: Thank you.

Mr. Fields: Alright, any other discussion or comments or questions? All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. All those opposed? Alright, the motion carries 5 with 2 absent. And then we'll receive the, assuming this will come back to us and then we'll advertise it for public hearing?

Mr. Harvey: Correct Mr. Chairman. As discussed previously with the Commission, we felt that we would try to take all the Redevelopment Plans to public hearing at the same time.

Mr. Fields: Right, okay. Alright. Number 2, discussion of medical and dental clinics definitions.

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2. Discussion of Medical and Dental Clinics Definitions (**Time Limit: September 15, 2010**)
(**Deferred to August 18, 2010**)

Mr. Harvey: Mr. Chairman, that's been on the Commission's agenda for quite some time. The staff has been awaiting some directions from the Commission. I understand there have been some concerns with the Ordinance as it was drafted. I understand Mr. Hirons had some concerns but he's not here tonight to fully elaborate.

Mr. Fields: Okay, in Mr. Hirons' absence, did anybody else have comments or questions? In that case, I think we should just move this onto the next meeting. Is that okay with everybody? We have a time limit of September 15th, so we're okay. Two more bites of the apple as they say.

Mr. Harvey: Mr. Chairman, just looking at the timeline, the time limit of September 15th would imply a public hearing.

Mr. Fields: By September 15th?

Mr. Harvey: Yes, so if you extend it to September 1st, it won't give enough time to advertise.

Mr. Fields: Nothing is easy, is it.

Mr. Harvey: Sorry.

Mr. Fields: Well, then we need to vote tonight to send it to public hearing or not. So, in that case, given that, does anybody have any questions or concerns regarding proposed Ordinance O10-29 regarding sending that item to public... advertising for public hearing? Realizing of course, that's not the final say. If we're okay with going to public hearing, then I'll entertain a motion to send it to...

Ms. Kirkman: Yes, Mr. Chair, I do have concerns because I felt like what was the stated original purpose of these amendments we determined could not be achieved by this Ordinance. So that's my concern about this Ordinance.

Mr. Fields: Okay. Do you feel like it's... do you have some ways of revising it or you just don't feel that the Ordinance...

Ms. Kirkman: No, I don't, because my understanding, from the conversations with the previous County Attorney, was that it appeared that there was no way to address the concerns that were raised; that there wasn't a way to fix the issues that were raised through an ordinance and it really had to do with the types of what was recognized as a medical profession. So, my understanding from some of the previous conversations was that there really wasn't a way to fix that.

Mr. Rhodes: Mr. Chairman, now that wasn't the original genesis of the ordinance, right? That was just some subsequent commentary here on the Planning Commission on some categories and areas. But I don't think that impacts the original (inaudible) of the ordinance?

Ms. Kirkman: Well, Mr. Chair, as you'll recall, we or some members of the Planning Commission approved or recommended approval of a change to the Ordinance that allowed certain medical offices as a by-right use in certain zoning districts. And this was an amendment to that amendment to attempt

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to broaden the definition of medical professionals to allow inclusion of alternative treatment professionals. And I think that's where we ran into the issues.

Mr. Fields: So, what we have before us really is simply an amplification of definitions, correct?

Ms. Kirkman: That's correct.

Mr. Fields: And do you have problems with those definitions?

Ms. Kirkman: I don't but I don't think it fixes the problem it was designed to fix.

Mr. Fields: Well, I think we realize that some of the problems... because I raised one of those problems regarding alternative practitioners and I think we explored it and realized that the issue as I raised it wasn't really solvable through the ordinance. But I don't think that means that what we have here is not applicable to be considered. It certainly doesn't address what I was interested in, but that doesn't mean that it doesn't have value to the ordinance I guess to amplify these definitions. So, I guess that specific to what's being proposed, do we have any questions?

Mr. Rhodes: Mr. Chairman, I make a motion for Ordinance O10-29 for public hearing.

Mr. Fields: Alright.

Mr. Mitchell: Second.

Mr. Fields: Second? Okay. Any discussion on then the motion to send this to public hearing? Alright, all those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Aye. Opposed?

Ms. Kirkman: Nay.

Mr. Fields: The motion passes 4 to 1 with 2 absent. Alright then... amendments to the Comprehensive Plan. Are we still working on the Comprehensive Plan? Good grief; this thing just goes on forever.

3. **Amendments to the Comprehensive Plan (Time Limit: September 7, 2010) (In Comp Plan Committee) (Deferred to August 18, 2010)**

Mr. Harvey: Mr. Chairman, please recognize Mike Zuraf for discussion on the Comp Plan.

Mr. Rhodes: It's Mike's fault.

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Mr. Zuraf: Yeah. Good evening Mr. Chairman and members of the Planning Commission; Mike Zuraf with the Planning and Zoning Department. We've provided you some information in your package in response to prior work sessions that you've held back on July 7th and 21st relating to the update of the Comprehensive Plan. Before I get into the memo, I do want to note that also at the same time as you may be aware, the Board of Supervisors has been conducting their own work sessions on the Comprehensive Plan and yesterday they had another kind of time at their meeting when they did discuss some issues with the Plan. At the Board meeting they did direct staff to work with the Joint Board and Planning Commission Committee to work on finalizing the Plan document. And then, at that point, the Joint Committee finishes up the document and presents that to the Planning Commission. But, in the meantime, we will of course go along with and continue to collect comments from the Planning Commission and forward them onto the Joint Committee. So, I just wanted to make you aware of that situation. And in your packages, I guess additional information that was provided to you tonight, we've provided the revised timeline of the whole process which basically, if you look at the latest timeline, it's generally pushed the Planning Commission public hearing back to October and then the Board public hearing back to November. And this is the result of some of the Board issues they've had a lot of. Their focus in their discussions have mainly been around the Urban Development Areas and they felt that the, I guess the extent of their issues were not going to be resolved in time to meet the prior schedule that we previously had anticipated. But at that point I guess I'll go through and...

Mr. Fields: Well, can you bring up... it's my understanding there are two or three fairly significant issues that are creating sort of a delay now at the Board level. Are you in a position to address those?

Mr. Harvey: Mr. Chairman, there was a discussion at the Board level at a closed meeting regarding a number of things. The Chairman of the Planning Commission asked that we schedule a closed meeting session with this body on September 1st to go over those details. Generally speaking, there's some work to be done with regard to the UDAs a little bit. Also there's some work to be done with regard to policies and implementation of affordable housing, and also dealing with some transportation related issues. And we can get into more of those details with a final legal review. Staff is currently working with our legal consultant and going through some of the administrative type of comments that they have on the Plan document. We will finish our discussion with them on Friday.

Mr. Fields: Okay. I'm kind of actually wondering, sort of getting the gist of some of these things, some of the issues with the document. I'm sort of questioning... I mean, I'm not questioning in a critical way, but I'm a little confused as to why we need closed meetings on these with an attorney for these Comprehensive Plan issues. Why are they conducted in closed... why we need to and can do these in closed meetings versus in public meetings. Maybe the County Attorney can enlighten me on that?

Ms. Kirkman: Well, Mr. Chair, I guess I'd want to know the specific exemption that makes this exempt from FIOA and the open meetings law.

Mr. Fields: That's kind of what I was asking in a broad...

Ms. Kirkman: Yeah, I just wanted to be more specific about it.

Mr. Fields: Well, if we need to, we need to; that's fine. I'm just concerned. I know that certainly whenever we're talking about litigation, we have to act in closed meeting because there's another party that is also meeting in a closed session with their attorneys and that's just the way the legal process

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works. Personnel issues I understand and certainly on the Board level real estate negotiations, things like that. I'm not exactly sure why, unless this is under the concept of a legal strategy that we're going to have to defend, assuming that we're going to have to defend ourselves against, on this Comprehensive Plan, I'm not exactly sure why those closed meeting rules apply. But maybe we can get an answer to that?

Mr. Smith: Yes, Mr. Chairman. I don't know for certain yet what issues the outside legal counsel and the Chairman would like to address with the Commission in closed session next time. But my understanding is there are some specific issues with the draft Comp Plan as it currently stands that they would like to speak about in private and I'm sure that some of it has to do with future defense of the Comprehensive Plan and making sure that it's as legally defensible as possible. But until I speak with the Chairman and outside legal counsel, I don't know for certain what they plan on addressing in closed session.

Ms. Kirkman: Mr. Chair, I have a question for the attorney. Mr. Attorney, does the County have any reason to believe that there's a specific threat of litigation regarding this matter?

Mr. Smith: I don't think since it has been adopted at this moment that there's a specific threat of litigation. But I believe that legal counsel will want to address specific areas that they want to ensure that the County is in the most legally defensible position and the Comprehensive Plan itself is as defensible as possible.

Ms. Kirkman: Thank you.

Mr. Rhodes: Mr. Chairman? Question for the Planning Director. So, they're doing an outside legal review and they're going to be done you think this week?

Mr. Harvey: Yes. They have conducted the legal review. They're going over that review with staff again for administrative changes right now. But they presented a broad summary of specific legal concerns to the Board yesterday in closed meeting and would potentially do the same with the Commission on the 1st.

Mr. Rhodes: Okay, so they would be prepared to present all that whether or not we adopted in closed session or not, they'd be prepared to present as appropriate at the next session on the 1st?

Mr. Harvey: Yes.

Mr. Rhodes: Okay, thank you.

Ms. Kirkman: Mr. Chair? Could we request a copy of that summary please?

Mr. Fields: Sure.

Ms. Kirkman: Mr. Harvey, is that...

Mr. Fields: Can we request a copy of that summary?

Mr. Harvey: I'll check with Mr. Howard to see how that can be distributed.

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Mr. Fields: Okay.

Ms. Kirkman: Thank you.

Mr. Fields: Alright. So, that will be added and then we'll start resolving, I guess, work through those issues in the next meeting. I didn't mean to interrupt you, Mike, I just wanted to make sure we had all that information for you; because that provides further context for what we're going to discuss now. It kind of changes the landscape a little bit. Alright, moving forward. Thank you.

Mr. Zuraf: Okay. Kind of going through the memo provides you a summary of what information we've provided in response to the issues that were raised at the prior meeting. The first issue, which this one goes back to July 7th, was providing methodology behind the growth projection tables that are within the document. And staff did include a revised version of Table 3.3 which are the growth projections of the Land Use Map which would be located within page 3-36 of the Plan. So, generally, what we've done with that is added footnotes to describe how different elements of the projections are derived within the Plan. And that's footnoted with a description and explanation at the end of that table.

Ms. Kirkman: Mr. Chair, I have a question regarding that. May I? Are we going to do this section by section...questions?

Mr. Fields: I think... that's fine with me if that's fine with everybody else on the Commission. I don't see why we would want to run through the whole thing and then ask questions. I mean, we're just trying to work through this. We have public hearings at 7:30 but, as usual, we'll just go to 7:30 and if we're in the middle of it, we'll suspend it and come back to it.

Ms. Kirkman: I guess, Mr. Zuraf, the information you provided outlines in a very broad and general way growth inside and outside the Urban Services Area, but the question that was specifically asked at the last Planning Commission meeting was how were the particular numbers for each of the UDAs, the residential units, derived? So, for example, how did you come up with the numbers of 3,300 units, not 3,000, not 3,500 units, not 3,565 units for Stafford Station or for Eskimo Hill, 920 units, not 918, not 1,000. And I did not see that information contained anywhere in here.

Mr. Zuraf: Yeah, I attempted to address that issue in number 3 on the memo, on page 2, and yes, as far as the specific numbers, I can't address that. Again, the information was developed by the Joint Board/Planning Commission Committee and what I did provide, though, is how the different Urban Development Areas are based on different concepts. Well, first, as we mentioned, areas 1 through 3 are associated with the redevelopment areas of Boswell's Corner, Courthouse and Southern Gateway. And those numbers correspond with the specific redevelopment area plans and the units that are recommended within that. I think that was fully addressed before. The other Urban Development Areas that are not associated with redevelopment area plans, they're more so related to different new urbanism concepts of development concepts that are spelled out within the document, that talk about having a town center of 100 acres and within that you would have a mix of commercial with multi-family units and so based on that you apply then the minimum densities as required under the state code Urban Development Area provisions are applied to that hundred acre area. And then it says surrounding that would be townhomes would be immediately adjacent to a town center and a certain number was provided. Now I can't speak to the specific number; the typical standard that was identified within several of the areas was like I think 800 townhomes. And then single-family at four dwelling units per acre around that (inaudible).

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Ms. Kirkman: So, I want to get very concrete here. So, for instance, under Stafford Station, how did you know to put 3,300 residential units in that box?

Mr. Zuraf: Again, that was provided by the Joint Committee, so (inaudible).

Ms. Kirkman: So, somehow that information was communicated to you.

Mr. Zuraf: How it was developed? No, it was not.

Ms. Kirkman: Not how it was developed but how did you know literally. Did somebody send you an email? How was it communicated to you to put 3,300 units in Stafford Station?

Mr. Zuraf: That was through the documents developed by the Joint Board/Planning Commission Committee and provided to staff to include in the Comp Plan.

Ms. Kirkman: So that document... so are you referencing the strawman document that was supposedly developed at the one 7 a.m. meeting where staff was not present?

Mr. Zuraf: I'm referring to the UDA strawman document.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Okie doke. Anymore questions at this point? Alright, moving on Mr. Zuraf.

Mr. Zuraf: Okay, the second point was a question about whether we could run the transportation model against the latest version of the Land Use Plan. And I think some of this information was relayed previously, but we basically were kind of advised not to expend funds at this time unless the Board requested us to go ahead and expend those funds to run a transportation model due to the expense of running a transportation model. And also we did note that there may not be sufficient time to update the background data as part of the model and have it all recalibrated and analyzed and everything to get the results within the projected schedule. And then also we do note that in a major follow-up effort to the development of the Comprehensive Plan will be to revise the more detailed Transportation Plan element of the Comprehensive Plan and, at that point, the model will be fully utilized to evaluate the traffic impacts.

Mr. Fields: Let me ask a question for clarification. I think I know the answer to this but, since the December 2008 draft and this, neither version of the UDA concept has ever been run with out transportation model, right? Either the 2008 version or the 2008 idea of the more compact UDAs around the... consonant with the RDAs or the new concepts being talked about, the nine UDAs? Has either concept been run with the transportation model?

Mr. Zuraf: Yeah, the 2008 version which had three or four Urban Development Areas... I think it's four Urban Development Areas... that model did include the Urban Development Areas.

Mr. Fields: It did? Okay.

Mr. Zuraf: Yes.

Mr. Fields: Alright; just making sure.

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Mr. Zuraf: Yeah, I had to go back and check that out to confirm that was included in the background information... I had to go back and actually do a little digging on that but it was.

Mr. Fields: Okay, great. I'll check my documents; if I don't have that... Mike, you're on the Transportation Committee... do you have that model? Does that ring a bell, a run of the transportation model with the UDAs?

Mr. Rhodes: We ran about three in about a six month period so it could have been one of those.

Mr. Fields: Okay.

Ms. Kirkman: Mr. Chair, I was actually a member of the Transportation Committee at that point, or Mr. Vice Chair... I'm sorry. And yes I do recall that.

Mr. Fields: Okay. Alright, so we do have data on that but, at this point, it doesn't look like we'll be able to get data on the new proposal.

Mr. Zuraf: Correct. And item 3 on your memo, we've already gone over relating to the basis for the Urban Development Areas. Item 4, there was questioning regarding how the proposed Widewater VRE station fit into VRE's plans, their Capital Improvements Program, their twenty year plan and how that related to capacity with their system. I spoke with Christine Hoffner, she's VRE's Planning Manager, and I did get some information in response to those questions. Regarding the CIP, no, the VRE station in that location is not within the CIP. The CIP is a six year plan that more so addresses short-term capital needs and so that's not a need that they've identified. Regarding the long range twenty year plans, the VRE strategic plan does not recommend any additional stations in Stafford County at this time. They have other priorities right now at this moment, including a new station in Prince William, a line extension in Prince William on the other line, and then the Spotsylvania County extension. Those are more of the expansion needs at this point that VRE has. And then also VRE did not that any new stations or system expansion must also have the approval of the host railroad over which VRE operates, which is CSX. So, there will be more coordination needed. And then also regarding the capacity to the system to handle additional volume, VRE has stated that they are currently operating at nearly 100 percent capacity in terms of available seats, station parking and equipment storage. They did note that a new station or expansion service would require commitment by the VRE Operations Board in the member jurisdictions. Also they added that an additional Stafford County station would likely increase the County's local subsidy contribution that would be required to VRE and any capital expenses associated with the system would be borne by the jurisdiction.

Ms. Kirkman: Mr. Chair?

Mr. Fields: Could that... I'm sorry, go ahead Ms. Kirkman.

Ms. Kirkman: Could we get numbers on what the current Stafford County subsidy per VRE, Stafford VRE rider, is as well as what the capital costs, the approximate capital costs of the station would be? So we understand what the potential financial liability of the County is regarding adding this VRE station in the Comprehensive Plan.

Mr. Zuraf: Okay.

Ms. Kirkman: Thank you.

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Mr. Zuraf: The number on the current VRE subsidy per VRE rider.

Ms. Kirkman: Right. Per Stafford VRE rider because that's what the formula is based on.

Mr. Zuraf: Okay. Item 5...

Mr. Fields: Excuse me just a second. Would there be, just speaking in really theoretical terms, if you had a development proposal that required another VRE station, would there ever be a case where you could actually require as a proffer the increased subsidy by the developer to VRE? Or is that a mechanism that has so many layers to it that you're getting out of bounds?

Mr. Smith: Well, because a proffer is voluntary, I don't think you could ever require it. And I think that that issue is one, improvements in general and how future improvements may be funded is an issue that outside legal counsel, from my understanding, will be addressing with the Commission at the next meeting.

Mr. Fields: Okay.

Ms. Kirkman: Mr. Chair, I also think part of the issue is that the subsidy may be for operational costs rather than capital costs and proffers may only be used for capital costs which is actually the biggest problem we have with the proffer system is that you may build a school and have proffers to do that but it doesn't pay for any of the teachers or ongoing operational costs of the school. And I think the same principle would probably apply here but the attorney can speak to that.

Mr. Fields: It's a very academic question because the VRE seems to be at a fairly maximum capacity now. But I'm just wondering, as we analyze all these things, what is possible and what isn't possible. For example, if they're doing a Cherry Hill... what caught my eye is I wonder what is involved and how it's playing out, if they're proposing an extension to the Cherry Hill infill station, the Cherry Hill infill station I'm sure is only necessary or theoretically needed because of the Cherry Hill development. I mean, there was no development there and now there's a giant development there at Cherry Hill. And so I'm wondering if, I think it's... is KSI, are they the ones that are doing the Cherry Hill?

Ms. Kirkman: Yes.

Mr. Fields: I wondered if they had negotiated anything with Prince William County or if there's a precedent for developers negotiating whether it's proffers or any other type of arrangement or whether there is even a mechanism for them entering into any agreement, being a party to anything having to do with VRE or whether it was simply because of the formula and the way VRE is set up and the membership and all that, whether that simply by definition excludes private participation.

Ms. Kirkman: Mr. Chair? I actually followed that rezoning a bit and I don't remember all the details of it. I don't believe there are any proffers regarding operational costs such as the County subsidy. I think there the big issue there was extension of a third rail. And I think the developer had some proffers around payments regarding the extension of the third rail.

Mr. Fields: But the third rail being though the property of CSX, wouldn't that be?

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Ms. Kirkman: It is, but I do believe the developer, and staff can obtain the information around this, but I do believe the developer, as part of the rezoning proffers, had some financial obligations regarding extension of a third rail; even though it's owned by CSX.

Mr. Fields: Okay, thanks. Alright, moving on. Number 5; I'm sorry, I didn't mean to get you off track.

Mr. Zuraf: Item 5, we provided this chart that compared the amount of land inside versus outside of the Urban Services Area on several different drafts that have been proposed. We were asked to add in the 2008 version of the Plan so that is the one change in item number 5. Item 6, there was discussion on the...

Ms. Kirkman: Could we back up?

Mr. Zuraf: Sure.

Ms. Kirkman: So, basically, if I'm reading this chart correctly, under the proposed December 2008 Comprehensive Plan, the Urban Service Area is initially reduced by about 9,000 and then expanded in '09 by 6,000. So, there's still a net loss of acreage inside the Urban Services Area.

Mr. Zuraf: Correct.

Ms. Kirkman: And under the Comp Plan that we're considering now, it looks like there's an increase of roughly a thousand acres inside the Urban Services Area from what is proposed now; is that correct?

Mr. Zuraf: Correct.

Ms. Kirkman: Thank you.

Mr. Rhodes: Mr. Chairman? So, Mr. Zuraf, I just want to confirm. So, the aggregate acreage, or the two added together, and therefore the maximum swing in difference between all the plans swings a total of three percent from the differences inside and outside on any macro level, right? Am I reading this correctly?

Mr. Zuraf: I don't have my calculator but... yeah, if there's no more than a three percent increase...

Mr. Rhodes: I see a max of 4,400 square foot shift in any totals, and divided by 142,000 that ought to be about three percent, right?

Mr. Zuraf: Right.

Mr. Rhodes: Okay, thank you. Thank you Mr. Chairman.

Ms. Kirkman: Did you mean square foot or acreage?

Mr. Rhodes: Acres.

Ms. Kirkman: Okay; you said square foot. I just wanted to clarify that.

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Mr. Fields: And it's a little tricky because the two versions have the phased USA so you've got to get the two numbers together. Alright, any other questions on that one? Alright, number 6?

Mr. Zuraf: Okay, in item 6, staff was asked to provide more of the background detail that went into the policy that recommends locating eighty percent of the future growth inside the Urban Service Area. And so we provided the information in Attachment 2 that was provided to the Steering Committee earlier this year. Item 7, staff was requested to provide a map that would overlay the latest proposed Urban Service Area limits with the existing water and sewer lines. So that map was provided as Attachment 3. Item 8, this was a question on whether the latest Plan... well, this was a question on whether the transportation model that was run in 2008, if that was used as a basis for the Transportation Bond Referendum. And the answer to that was that the Bond projects included safety projects identified by the Youth Driver Taskforce, as well as other road improvements previously identified for partial funding for VDOT or County sources. And also... I think I answered the question about the 2008 transportation model run did evaluate the Urban Development Areas in the 2008 draft Plan.

Ms. Kirkman: Mr. Chair? Although the statement is that the model run did not influence the list of projects, I do seem to remember some modeling that included the list of projects. Has there been any modeling done with the list of projects which have since been approved? Because I'm pretty sure I saw something along those lines.

Mr. Zuraf: I would have to check into that.

Mr. Rhodes: Mr. Chairman, my recollection from the meetings and the three sets of models... I believe it was three sets that we had run during a window of time there... I believe those models included some of the major projects. Some of these are little flow in sight and they really had no impact and no way to include them in the models. So I do believe versions of the model did include some of the road projects. I don't know that they included them all in total though. I don't recall one that took all the projects and added them all in total, but certainly took some of the significant ones that would have some through-put impact and I think they were included in some of those models.

Mr. Fields: The bond projects obviously were simply some of the logical large road projects that needed to be done, whether they were bond or VDOT or gifts from foreign country or wherever the money came from; you gotta improve Courthouse Road west, right? Alright. Number 9?

Mr. Zuraf: Number 9 was the issue was raised with the concern about the potential for additional connections to water and sewer in relation to the recommended water and sewer expansion areas that are within the Plan. And the request for staff was to provide a list of all the Comprehensive Plan Compliance Reviews between the years of 2000 to 2010 and Attachment 4 provides you the list of all the water and sewer related Comp Plan Compliance Reviews and whether they were approved or denied. And there were thirty total; twenty-eight that have received a decision. Two are pending and of the twenty-eight that received a decision, seven were denied, twenty-one were approved. So, it's a seventy-five percent approval rate.

Ms. Kirkman: Mr. Zuraf, could you clarify... this is the Planning Commission approved and denied. I thought the Board was the one that made that legislative decision about the Compliance Review?

Mr. Zuraf: No, it's the Planning Commission that makes the decision. And then if they... that could be appealed to the Board.

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Ms. Kirkman: They appeal to the Board.

Mr. Zuraf: Yeah, which has happened in a few of the cases.

Ms. Kirkman: Okay, thank you.

Mr. Zuraf: Number 10...

Mr. Fields: This will be the last one? Thanks.

Mr. Zuraf: Staff was requested to prepare the full build-out analysis of the latest Land Use Map similar to how that was done in 2008 and 2009 on those Plans. And so we did include the build-out in Attachment 5.

Ms. Kirkman: Mr. Chair, I have some questions regarding this but given the time...

Mr. Fields: Yeah. Okay, so we'll cease right now with the presentation of item number 10 and we'll begin with questions to number 10 when we come back to this.

Mr. Zuraf: So I get a break.

Mr. Fields: You get a break, Mike. Sorry, we'll try to get to everything else so you don't have to wait till like tomorrow. I'm just waiting to get, by most peoples' calculation, to be 7:30.

Continued after Public Hearings.

4. CUP2900195; Conditional Use Permit - Stafford Lakes Service Center - A request for a Conditional Use Permit to allow vehicle fuel sales in the B-2, Urban Commercial Zoning District as well as within the Highway Corridor (HC) Overlay District on Assessor's Parcel 44-75 consisting of 0.96 acres, located on the north side of Warrenton Road and the east side of Berea Church Road within the Falmouth Election District. **(Time Limit: September 14, 2010) (History - Deferred at June 16, 2010 Meeting to July 7, 2010, for meeting with Mr. Hirons, staff and the applicant) (Deferred at July 7, 2010 Meeting to August 18, 2010) (Deferred at July 21, 2010 Meeting to September 1, 2010)**
5. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) **(Time Limit: October 6, 2010) (Deferred at June 16, 2010 Meeting to August 18, 2010) (Deferred at July 21, 2010 Meeting to September 1, 2010)**
6. Reservoir Protection Overlay District **(Deferred to August 18, 2010) (Deferred at July 21, 2010 Meeting to September 1, 2010)**
7. COM1000010; Comprehensive Plan Compliance Review - Miracle Valley Lane Sanitary Sewer Extension - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for the extension of gravity sanitary sewer outside of the Urban Services Area a length of 505 linear feet to serve two residences, located on the north side of Deacon Road and east side of Grafton Village Elementary School on Assessor's Parcels 54-132, 54-133A and 54-133B within the Falmouth Election District. **(Time Limit: July 4, 2010) (History - Deferred at May 19, 2010)**

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Meeting to June 2, 2010 Meeting) (Deferred at June 2, 2010 Meeting to October 6, 2010 Meeting)

NEW BUSINESS

None

7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Fields: Alright, at this time we'll move to the 7:30 p.m. section of the Planning Commission Agenda. And the first item on that agenda, the evening agenda, is presentations by the public. This is an opportunity to address the Planning Commission on any topic that is not on the agenda for a public hearing; meaning that, of course, at the time of the public hearing, you will have an opportunity to speak on the specific to the public hearing item. So, the public hearings we have before us tonight are the Telecom Tower just off of White Oak Road and two different amendments to the Subdivision and Zoning Ordinances. And my understanding that the three items related to the Fairfield Inn and Suites have been withdrawn. Is that correct? Okay. So, if you were here to speak on the Fairfield Inn and Suites public hearing items, you don't have to stay around because we're not going to have a public hearing on them. If you still want to make remarks, since they're not on the item for public hearing and you came here to speak on those issues and you feel like this is your only opportunity to speak and you need the Planning Commission to hear your remarks, you're certainly welcome to do so during the public presentation time. So, at this time, we'll begin presentations by the public. You can come to the podium. Please state your name and address for the record. The light system is a three minute clock. The green light you begin your time, when the yellow light comes on you have a minute and when the red light comes on we ask that you rapidly conclude your remarks.

Ms. Karnes: Good evening. My name is Debrarae Karnes and I work for Leming and Healy on Garrisonville Road. Mr. Chairman, I'll make this very fast. I'm here to mention to you that as I think you've been reminded, the Stafford Lakes Service Station has been deferred because we are taking the issue of dedication of ultimate right-of-way to the Board of Zoning Appeals next week. In our preparation for the BZA, we're making a very concentrated effort to capture the Planning Commission's concern to the degree that we are doing a verbatim narrative of the questions that you guys expressed. To the extent that you have specific questions though, I would encourage you to contact the BZA directly and let them know what portions, if any of it, that you had questions on. That's all. Thank you very much for allowing me to talk.

Mr. Fields: Thank you Ms. Karnes. Alright, is there anybody else that wishes to address the Planning Commission?

Ms. Kurpiel: Good evening Mr. Chairman and members of the Board. My name is Patricia Kurpiel and I live in the Accokeek Creek Watershed. I have a number of comments about the Comp Plan I'd like to make tonight. No build-out. We need a build-out on the same basis as the 2008 and 2009. Citizens are entitled to know what their maximum exposure is under any plan. Chairman Dudenhefer pointed to the Loudoun plan and said well ours is sort of modeled on theirs, that's why it's so general. Well, when I looked up the Loudoun plan, big as could be, the build-out numbers. Please provide build-out numbers. Stafford is already over-planned. I think all building is going to go to the agricultural areas as soon as this market improves. That's not what we want. What citizens say they value most is the agricultural atmosphere. Our Board has no appetite for downzoning, yet they've refused to put PDRs on the November Referendum. That would have been a way to save ag land; let the citizens decide if they want to pay. TDRs are not going to work. The reason they're not going to

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work is builders can already build forty-eight units per acre using your TND legislation that already exists. Roads are over-extended. You haven't addressed the fact that twenty-five percent of the roads on the George Washington Regional Commission's long-term plan exceed the level of service that's in your Comp Plan now. You're touting proffers, or the Board is touting proffers as what makes this plan so good, yet they have refused to look at the detail of those proffers that's in the appendix. It has not been revised in years. Transportation Impact Fees; I think these are a good idea too. But, again, every time the Board looks at this issue, they're looking for some way to exempt business or not to charge the whole fee. We need all the money we can get for roads. Six of the proposed UDAs are in green fields and places that have no water and sewer. And I want to direct your attention to map number 5.3 in your draft Plan. That is population density and you will see that Widewater and Brooke have the least density on the whole map; zero to fifty people per square mile. Ladies and gentlemen, that is the epitome of sprawl. This Plan promotes sprawl. Well, the presence of rail has been cited as the reason for putting Widewater on. There is no rail in the foreseeable future that I know of. I understand the Brooke parcels are located... the Brooke UDA parcels are located on both sides of the railroad track. How are people going to get from the other side of the track to the station? Six new UDAs have water and sewer issues and this needs to be resolved before these UDAs are put on the map. Infill; look at infill as a possibility. Along Route 610; why isn't that a UDA area? Thank you very much.

Mr. Fields: Thank you ma'am. Is there anybody else that wishes to address the Planning Commission?

Ms. Rollison: Mr. Chair, members of the Planning Commission... Nan Rollison in the Griffis-Widewater District. Tonight I am speaking against the proposed revised Comprehensive Plan as it stands now. This is the third time that Griffis-Widewater citizens have been approached with a proposal of massive development on what is a basically a rural forested peninsula. This is a way of life we like; this is why we moved out there. We don't want a mini-city on our peninsula. It doesn't make ecological sense, it doesn't make financial sense, it doesn't make smart growth sense. This Comp Plan has expanded tremendously, as you know, from the three pilot Urban Development Areas to nine Urban Development Areas. A number of neighbors I have talked to have expressed two things. One, why are we going all out on building new dwellings when we have such a backlog of new homes that haven't sold yet. Two, why are we networking UDAs all around the County when it would be a better idea to pilot two or three of them, see how they go, find out what works and what doesn't, and then modify. It does make no sense to put a network of growth all over this County. The new Stafford Station UDA proposal is especially impacting Griffis-Widewater. This proposal means two, not one, but two UDAs on our peninsula, the one at Boswell's Corner and another massive development in mid-peninsula; 2.5 million square feet of commercial and office space and 3,300 dwellings. This is going to impact our taxes, our water resources, and it is unacceptable for Griffis-Widewater. One of the justifications is to disperse the growth. We all know that dispersing growth is another word for sprawl. That is not smart growth. Another justification is that the BRAC activities are bringing lots of new people. That's what Boswell's is for. Something else you need to think about. You all are supposed to be planners looking out for the benefit of all citizens. The connected system of forest on Griffis-Widewater is important to protect the waters that we all get health and enjoyment from and recreation, as well as commercial activities of marinas. In addition, carbon pollution reduction measures are coming. Google climate change and DOD, google climate change and series, google climate change and insurance; all of these are some critical research that you need to do. By saving the forests on Griffis-Widewater, that is a way that we can have carbon pollution reduction mitigation options; one, for the landowner, two, for the County. It would be better serving the citizens of Stafford to leave those lands intact to protect the Potomac, the Bay, our air quality, our water quality. Thank you very much.

Mr. Fields: Thank you ma'am. Anyone else that wishes to address the Planning Commission?

Mr. Hundley: Good evening Mr. Chairman and members of the Commission. I'm Steve Hundley. I'm the Community Plans and Liaison Officer for Quantico Marine Corps Base. And I believe you received in your packet a letter from the Base Commander that should have been distributed to you

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tonight. And I'm here just to say I'm willing to answer any of the questions you might have regarding that and to ask that it be entered into the public record.

Mr. Fields: Alright sir, but with public presentations, our by-laws don't allow us to engage in a dialogue. It sounds like this might be something that we should just simply place on the agenda for the next meeting, if you'd be willing to come to a work session and have a dialogue.

Mr. Hundley: Sure, absolutely.

Mr. Fields: I appreciate you coming. Thank you.

Mr. Hundley: Thanks.

Mr. Waldowski: Paul Waldowski. Last time I was here I heard the chatter about negative connotations in the Comp Plan and I'm really sorry Mr. Falmouth is not here. And one of the things I want to make clear that everything's not so rosy Mr. Rhodes. So I'm going to give you a track record of the last twenty years because your track record as Planning Commissioners is not that good. So, let's start off with talking about BP and to me that's backwoods planning. And we don't have any Conditional Use Permits so I'll just call my CUP cover-up problems. And we'll start in Aquia where we have one of the subdivisions that have been here with no sidewalks, so there's your model. And then let's go to the Aquia Town Center and you'll see from there, just look at the green space and how the restaurants are gone, the scholarship, the Big Lots, the Goodwill, the Laundromat. And then let's pull out of that parking lot and then see the gas station that's sitting there empty, as well as all the other houses that are empty and that's why we have short sales in this county. And let's go north and make a left on 610. And we know how well you plan because we've modified 610 from a four leaf clover to now we have 810. So let's make a left on 810 and let's go into the commuter parking lot that shouldn't be paved over anyway because it's overflowed... and I've told you before that you need to build a vertical parking garage. That's planning, and I'll finish my speech with that one. So now let's pull out of the parking lot toward Mine Road and you can see Help U Sell but look at the other strip mall abilities that are sitting there that are still vacant. Now let's go north and pull into Walmart and you approved all that space so the only time that parking lot is filled is on Black Friday, once a year. Now let's pull out of there and let's go to our second 7-Eleven that put us into the Guinness Book of Records that destroyed a 200 year old magnolia tree, that leaves another vacant 7-Eleven, and then let's conclude and make a left and go north again to the other commuter parking lot that should have that vertical parking garage. And guess what? When all the commuters go home, if you would use that space to maybe make some ball fields and a soccer field, then maybe you could have senior citizens who are griping about softball and soccer leagues and have them games at seven and eight a.m. and nine a.m. But, what can I say? It's a BP, it's a big problem. But I'm not negative because BP means building permits. It also means best practices, better procedures. See ya next month!

Mr. Fields: Thank you. Anybody else wishing to address the Planning Commission? Alright, with that I will close the presentations by the public. We now come to the public hearing portion of the evening's agenda. We begin, I assume, are we going to hear the presentation on number 8 and 9 together or are they going to be made separately?

Mr. Harvey: Mr. Chairman, we can combine them if you wouldn't mind.

Mr. Fields: That's alright with the Planning Commission? Good.

PUBLIC HEARINGS

8. COM1000041; Comprehensive Plan Compliance Review - Telecom Tower - AT&T @ Mountain Avenue - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for a

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second telecommunication facility, located on the west side of Mountain Avenue approximately 700 feet north of White Oak Road on Assessor's Parcel 54-45A within the George Washington Election District. **(Time Limit: October 17, 2010)**

9. CUP1000042; Conditional Use Permit - Telecom Tower - AT&T @ Mountain Avenue - A request to amend an existing Conditional Use Permit, specifically condition #1 of Resolution R08-480, to allow a second 175-foot tall monopole telecommunication facility in an A-1, Agricultural Zoning District on Assessor's Parcel 54-45A. The property, consisting of 3.62 acres, is located on the west side of Mountain Avenue approximately 700 feet north of White Oak Road, within the George Washington Election District. **(Time Limit: October 6, 2010 - Board of Supervisors Deadline)**

Mr. Hess: Good evening members of the Planning Commission. May I have the floor computer please? Staff brings to you tonight items number 8 and 9. I apologize about that, not 1 and 2. Comprehensive Plan Compliance Review, that's COM 1000041 and then the Conditional Use Permit is CUP1000042. This is AT&T Mobility @ Mountain Avenue. And I don't have the mouse. Okay. Background report. Excuse me, the background. The applicant, as I mentioned before, is AT&T Mobility. The site is on Assessor's Parcel 54-45A. The site is approximately 3.62 acres. As you can tell, the site is located west of Mountain Avenue approximately 700 feet north of White Oak Road. The request for the Comp Plan Compliance Review is for construction of a second communication facility on the site. Here are the existing conditions. As you can see, there is an existing tower on site. I've highlighted the intersection of Mountain Avenue and White Oak Road, where you turn left onto Mountain Avenue to go up to the site if you're heading east on White Oak Road. I also identified approximately where the proposed new tower is supposed to go. The existing zoning shows that the subject parcel is A-1, Agricultural, and all the properties abutting it are zoned R-1 which is Suburban Residential. As you'll see in the southeast corner, there are a couple B-1 zoned properties along White Oak Road and Hoyt Street. Here's what the current Land Use Map shows. It shows yellow, which represents Suburban Residential Land Use which permits residential development at a maximum of three dwelling units per one acre. A little bit of a zoning background. If you recall, in 2008 the Planning Commission approved a Comp Plan Compliance Review for the property and in November 2008 the Board of Supervisors approved a reclassification and Conditional Use Permit. The County was the applicant on all three of those applications because they were in the process of collocating public safety equipment on, in this particular case, on what was an existing legally nonconforming telecommunication facility which now, because of the approved reclassification, the approved CUP and the approved Comp Plan Compliance is a legal structure with a legal use on it. So the current conditions are that there is a 490 foot tall guyed tower that was constructed in approximately 1988. You have Star Broadcasting Corporation equipment and the County Public Safety Radio Communications equipment on and around the tower. There are two equipment shelters, one for each user. There is an eight foot chain-link fence with barbed wire around the tower and the County's equipment shelter. The Star Broadcasting equipment shelter is outside that fence. The facility is located approximately in the center of the property. The access to the facility, as I mentioned before, is through Mountain Avenue. And the property is relatively flat and open. The proposal is to construct a second telecommunication facility on the site which would amend condition 2 of the approved Resolution R08-480. The outside improvements would include a 175 foot monopole tower located sixty feet south of the existing tower. It would also have an 11x11 concrete pad with eight foot tall equipment cabinets. There would be a ten foot tall icebridge to connect the cabinets to the tower. And there would be a matching eight foot tall chain-link fence with barbed wire. Here is a picture of the overview site. As you can see in the middle, if I had the mouse, I apologize, I would show you, that the tower is right in the middle. If you go just down a little bit you'll see a square area marked off;

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that's approximately where the new monopole tower would go. As you can see the area around, you have residential structures surrounding it on the east side, the north side and on the west side. I believe this is an Assisted Living Facility in the southwest corner and then there's an undeveloped vacant piece of property to the south which is owned by the Church of Latter Day Saints. The development plan shows the existing tower that has the icebridge, which is the long rectangular shape, and then the equipment cabinets along the icebridge. Over to the left there are two areas for future providers to collocate, so those are additional leased areas. And, as you can see, the entire site would be fenced in by a chain-link fence with barbed wire. This is the elevation view. It shows the proposed apparatus. The proposed apparatus shows AT&T at the very top with two spaces for additional users in the future. The existing propagation map shows the current coverage that AT&T is providing in the area. And then the next slide is showing the proposed coverage that this tower, the construction of this new tower, would give in the George Washington Election District area, in and around White Oak Road. When Comp Plan Compliance Review cases come forward, we hold them against the, especially for telecommunication facilities, we hold them against the telecommunication plan which is an element of the Comprehensive Plan. Some of the siting criteria we look at is collocation on existing telecommunication facilities, spacing of facilities to be three to five miles apart from each other. The Plan also discourages impacts to historic properties and aircraft operations. It also discourages the location of facilities near residential concentrations. Some of the design facility standards that we hold these proposals against would be to provide collocation of at least three carriers, to design...

Mr. Fields: I think we're on the wrong slide here. We're one slide... there we go.

Mr. Hess: Okay, perfect. Antenna design, color and scale to be compatible with each other and to be designed with low impact. Then the facility design would be to be designed to minimize visual impacts specifically near residential developments. Tower setbacks would be from property lines in adjoining residential dwellings. So, some of the things we looked at when we evaluate this case... next slide please... as far as against the Comprehensive Plan, the telecommunication plan specifically, was we said the positive aspects were the propagation maps support the facility spacing. That also provides for future collocation, up to three providers total. We also mentioned that because the height is limited to 175 feet, it's fall zone is actually to the edge of the property line; it does not carry over into adjacent residential properties. We also looked at the clustering of these two facilities next to each other would help reduce the impact countywide. We also mentioned that no impacts to historical resources and no interference with the County Public Safety Facility Equipment which is on the existing tower on the site. The one negative aspect we looked at was again that this existing tower and the proposed tower rather are not compatible with adjacent uses because it is around a surrounded established residential development or communities rather. So, with that, on balance staff believes that the proposal does meet the goals and objectives of the telecommunication plan and recommends the Planning Commission approve the request to be compliant with the Comprehensive Plan. And then moving onto the Conditional Use Permit, again the applicant requested that condition 2 of the CUP be amended to allow the second telecommunication facility. The County also had some additional recommendations and, if I could draw your attention to Attachment 13, pages 2 and 3 specifically, not to be all over the place or throw you off or confuse you, what we did is we recommended that a new condition be added which talked about low impact design methods to be incorporated into the design of the tower. So that became the new number 5. So, the next condition being when I say delete previous condition number 9, if you flip to page 3 that was number 9; it would have been number 10 had it stayed. But that one actually removes the landscaping buffer with the two rows of evergreen trees. And there's a letter that was submitted to you all from the owner that talked about the planting of trees and how detrimental that would be to all the underground wires that are underneath this property for the broadcasting station use. So that was removed by staff. So, therefore, what was

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condition number 8 and now became condition number 9 because we added condition number 5, talked about the chain-link fence. And that was in regards to the existing fence that's there in saying that the existing fence and any proposed fences would be constructed the same as what the existing fence is, which is eight feet tall, it would be a chain-link fence and it would have vinyl slats and barbed wire to provide for screening and security purposes. So, not to confuse you by jumping around there.

Ms. Kirkman: May I ask a question? I don't understand the reasoning about removing the buffer, because aren't... those wires must be buried at a minimum depth.

Mr. Hess: I would have to go back and look at the letter really quick here. I'm not quite sure... I don't believe the letter specified... Okay, six inches deep. Yep, I see right here. It says these ground plain elements are buried six inches deep under the soil and they extend away from the tower at distance equal to the wavelength of the transmission frequency.

Ms. Kirkman: And how many of them are there? I mean, that screening requirement is a pretty important one.

Mr. Hess: Certainly. I'm going to defer that to the applicant.

Ms. Kirkman: Okay, that's fine. Thank you.

Mr. Hess: Okay? I'll go ahead and finish up the presentation. Next slide please. As far as the Conditional Use Permit, staff recommends approval. We believe that the proposed use is in accordance with the standards of issuance of the Conditional Use Permit for the various reasons; it does not change the established pattern of development, the use remains the same, the use is already a telecommunication facility on the property, it's proposing a second one, it does not hinder or discourage future development on adjacent properties. Again, it's a well-established neighborhood along Mountain Avenue and the neighborhood to the north. It does not adversely affect the health and safety of adjoining residential properties. Again, we talked about the fall zone being on the property itself. The location of the tower is interior to the site; it's centrally located just like the existing tower. So, therefore, because it's minimizing height, it won't fall off or over... spill over the subject property's lines. And then the low impact design will reduce visual impacts of the tower equipment and ground equipment. Again, that was adding the new condition 5; we talked about low impact design methods to be incorporated. And with that I'll take any questions.

Mr. Fields: Any questions from members of the Planning Commission? We'll start with staff and then whatever staff can't field, we'll move to the applicant.

Ms. Kirkman: What is the status of the buffer now? The required buffer?

Mr. Hess: It currently does not exist. It has not been...

Ms. Kirkman: So, they have not complied with the conditions to date?

Mr. Hess: They have applied for the permit to do the work. The work, as I know it right now, is not complete.

Ms. Kirkman: Have they started any of the landscaping?

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Mr. Hess: I believe they have not. I visited the site; the pictures you saw there at the end shows the equipment, the shelter, with the barbed wire fence.

Ms. Kirkman: And when was the CUP approved?

Mr. Hess: I believe it was approved in November 2008.

Ms. Kirkman: So, not quite two years ago? Okay, thank you.

Mr. Fields: Any other questions for staff? Mrs. Hazard?

Mrs. Hazard: Mr. Hess, I was curious about there's options... or it appears that there are options for the lessee to screen the use from any public street or adjacent properties, and the vinyl slats and the existing chain-link fence. That's one of four options. Is there any reason that we have limited to that... and that may be something the applicant may want to... I'm just trying to figure out if there are options available with regard to the design and construction standards. Is there a reason we have, or they have picked that particular option?

Mr. Hess: As far as picking the vinyl slats... I'm not quite sure. I mean, again, like you pointed out, there are options that the DCSL, the design standards manual, allow in a situation. I'm not quite sure why they chose that one. I guess because it's less detrimental to what already currently exists as far as the tower and the underground wires.

Mrs. Hazard: Okay. I was just wanting to make sure if some of the options could be better in some ways. I just don't want to limit the applicant to something that could be better. So, I was just wanting to potentially suggest that it has to comply with clearly these sections, and that's one of the four. But that is something even the applicant may address. I just had that question. Thank you.

Mr. Fields: Does the staff... you guys say that there's no impact to historic properties. Is there a specific definition that you're using for historic properties? Because certainly the Phillips House that's adjacent to it is one you would consider to be a property of historic value.

Mr. Hess: Again, on that one... we got the letter from the Department of Historic Resources that stated that there would be no adverse impact on any cultural resources in the area. As far as further elaboration, I don't have anything past that.

Mr. Fields: Okay. So, you're simply following the state office?

Mr. Hess: Correct.

Mr. Fields: In your analysis.

Mr. Hess: Correct.

Mr. Fields: Alright. Any other questions for staff? Alright. I assume the applicant would like the opportunity to address the Planning Commission as well.

Mr. Rapisarda: Good evening Mr. Chair, Commissioners. My name is Greg Rapisarda. I'm a Virginia attorney here representing AT&T, the applicant. I want to thank Mr. Hess for his

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presentation. I'm not going to repeat that, but I will highlight a few things that I know that are in your package and then what Mr. Hess talked about. Actually, one thing that is in it is just that AT&T is excited to be providing coverage, or hopes to be providing coverage in this area. This tower isn't going to resolve all of their issues but it will certainly provide wireless services to a key area where there is a lot of use. In fact, this site, just to let you know, has been in development... it's been with my office for twenty months and there's due diligence before it even gets to me, from a zoning and planning perspective. So you have the technical due diligence, and it's just a little background. The technical due diligence, with the radio frequency, engineers are looking at where they can place things. And then you have the site acquisition. And you saw how we analyzed the existing towers, then we even looked at large properties and then we worked our way to this property. So in terms of the Comprehensive Plan Compliance, I have nothing to add specifically; I just want to thank the staff for their report. And then I will move on and address the amendment to the CUP. Unless you had any questions for me now or you want...

Mr. Fields: Well, if you want to finish your presentation; I certainly have questions.

Mr. Rapisarda: Okay. So, when it comes to removing condition number 2 which prohibits more than one tower, I think the two key things to focus on there... that's to protect surrounding areas obviously from safety as well as visual impacts. And what you had in our original application package was a visual impact survey that where we went to the site, we flew a large red weather balloon at a height of 175 feet and then we went around the area. I think that highlights that even where it was visible, the minimal visual impact of where your eye is drawn even when it's centered in the photograph, I admit there could be differences of opinion, but I would submit that that is minimal visual impact. And so I think that removing this condition would allow for protecting that visual impact, or at least maintaining the status quo. The other thing is the central location of the property. And some of the other properties that we looked at that weren't home to a tower, in theory they were okay but from a practical perspective we couldn't meet the setbacks. And I know that the one to one setback is only a guideline, but it is a guideline for a reason. And we're able to meet that setback on this property. And so that's more of a safety issue. Commissioner Kirkman brought up the landscaping buffer and the technical issues. I think I can touch on that a little bit but my knowledge of that is going to stem from the letter that you have from Mr. Wilk who is the chief engineer for the radio station. And these coils that are under the ground, they are six inches under the ground and there are 120 coils that go around the tower. And they are, and I'm not going to try to put it in lay perspective because it's going to come from a lay perspective, from me, but they are part and parcel with the technology of the AM broadcast. And so anything that's going to damage them is going to damage the entire facility. And I know after the County amended this and got the CUP, there was a lot of retuning that had to go on afterward because of the construction. And we're going to have to do the same thing after AT&T moves in there as well. And so once they are set, they need to be set. The other thing that I wanted to touch on is the slats in the fence. And the slats in the fence is not related to a technical requirement. There can be slats in the fence and it's not going to impact the use of the AM broadcast station. But it's from a practical perspective and it really deals with the relationship of this radio station having residential neighbors and the relationship between the owners and managers of the radio station and those neighbors. The tower and the compound, generally, because you can get behind it, it has attracted certain unsavory elements over the years. People climbing the fence to drink inside of it. I don't know if... Mr. Wilk might know, but I know there is always a fear of someone trying to climb a tower like that, especially related to drinking. But I think sober climbing on a 495 foot guy tower is probably not recommended either. Vandalism; and so the relationship between the neighbors... there's a de facto neighborhood watch. Somebody comes in, the neighbors can see into the compound, they put in a call in and vice versa. So you end up with this requirement in the DCSL that is good, and I can

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see it being good in almost ninety-nine percent of the cases. And then, in this, because of the uniqueness of this large tower, large compound, good relationship with the neighbors, it would call for a waiver or a removing of that condition. Mr. Wilk is here tonight. I also have some folks here from AT&T. I can usually answer most general questions about radio frequency or site acquisition, some with engineering, but we also have our engineer here. We have our radio frequency engineer and we have our zoning manager. So, I guess, in terms of the slats, I do have... and Mr. Wilk gave this to me... it's something that he got yesterday and he went to his two closest neighbors, a Mr. Gallahan at 125 Mountain Avenue, and Rachel Deshara... Deshapo maybe... at 117 Mountain Avenue. And they signed this that says this letter is a petition to the Stafford County Planning Commission regarding the slats and the chain-link fencing that will surround the tower compound housing the AM tower and AT&T's tower. We believe that solid slats through the fencing around the compound will have the following impact on the security of the site. The de facto neighborhood watch that we currently enjoy would be diminished by these slats. For years we have had the cooperation of the neighbors to notify us immediately if someone is on our property and near our tower compound. These slats would block anyone, including the police, from being able to see clearly into the compound for intruders. This type of fencing would merely make for a convenient hiding place for teens and vagrants. That was a letter by Mr. Wilk that these two neighbors, the closest neighbors that have the visual access into the compound, signed. And doing a lot of the telecommunications work, I can tell you that's pretty unusual in and of itself. So that really highlights the relationship between them. And I do have a copy for everyone if you would like. Or I can leave that with you and enter that into the record.

Mr. Fields: Sure, you can give that to Mrs. Stinnette there.

Mr. Rapisarda: Okay. So, really, to conclude and wrap it up, I want to thank Mr. Hess again, ask that you allow AT&T's tower, remove the one tower limitation, remove the requirement that there be the landscaping because of the technical issues, and then because of the relationship between the neighbors and the AM tower owner and managers, recommend that the slats are not to be put in. And with that, I think you and I'm open to any questions.

Mr. Fields: Are there any questions for the applicant? Ms. Kirkman.

Ms. Kirkman: I can't find the letter you keep referencing about the landscaping. What page is it in the packet?

Mr. Rapisarda: That is Attachment 13, it's in the August 18, 2010 memo to the Planning Commission for the Conditional Use Permit and it is Attachment 12, I'm sorry, pages 1, 2 and 3.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Are there any other questions? Mrs. Hazard?

Mrs. Hazard: Right now, are there... you've spoken about how people can see into this property. Is there additional lighting on that property aside from the, I'm sure since the one tower is 400 feet high I know the FAA probably has some requirements, but is there additional lighting there? And I apologize, but I couldn't see from the map there, but is there other lighting on that property?

Mr. Rapisarda: That I'd defer if I can get that answer for you.

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Mrs. Hazard: My only question was whether there was going to need to be additional lighting with regard to then the addition of another tower on there that I would want neighbors or others to be aware of any additional bright lighting or anything like that.

Mr. Rapisarda: Oh, thank you. I know in terms of AT&T's proposal, there is no lighting and this tower will have no illumination at all. It's 175 feet and it sits next to a lit one, but even if it didn't this would not meet FAA lighting.

Mr. Fields: Any other questions?

Ms. Kirkman: I guess the question I would have is if the landscaping has the potential to interfere in any significant way with the AM broadcasting capacity of FLS, why did they agree to the condition in the first place?

Mr. Rapisarda: I'm not sure... I don't think that I can answer that.

Ms. Kirkman: Okay.

Mr. Rapisarda: Because I wasn't involved at that time and I'm not sure what took place when this was... I believe this was a nonconforming use of some kind that was then rezoned. But, I probably already said too much. I don't think I can speak to why somebody would have agreed to it at the beginning.

Ms. Kirkman: Okay, thank you.

Mr. Fields: The first and obvious question is why do you need another tower? Why can't you collocate on the existing tower?

Mr. Rapisarda: Well, that would be AT&T's preference. Not only is it a requirement...

Mr. Fields: AT&T's preference to locate on the existing tower?

Mr. Rapisarda: Oh, most definitely. AT&T's preference anywhere would be to put their antennas onto an existing structure. Their real goal is to get their services out to the market so that people aren't dropping calls and switching carriers. And so, the quickest way to do that from a zoning perspective, from a construction perspective and from a cost perspective, is to get your antennas on an existing tower. This tower had a structural analysis conducted and it would be over capacity with additional antennas on it. So it failed the structural when they computed it with AT&T's antennas.

Mr. Fields: Because of the collocation of the County emergency equipment, is that what made the difference? I mean, what's on there now other than the radio broadcasting antenna?

Mr. Rapisarda: I don't know what else is on there. I just know that it failed the structural and I have a copy of that if you'd like to see it. Or I might be able to ask Mr. Wilk, too, if he knew what else was on it.

Mr. Fields: Just in general. I don't know how heavy cell phone antennas are. You know, you're thinking a four hundred and some foot antenna with guy wires... And how long has it been there? It's been there for a long time.

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Ms. Kirkman: That may be the problem.

Mr. Fields: That may be the problem. But I would like to hear that, you know, if we can do that I would like to hear the reasoning, the analytical path down why we can't collocate.

Mr. Rapisarda: So, Mr. Wilk just told me that it is just the Stafford County equipment and the AM tower.

Mr. Fields: That's all that's there now?

Mr. Rapisarda: That's all that's there.

Mr. Fields: That that's all it can handle according to the structural analysis.

Mr. Rapisarda: That's all it can handle.

Mr. Fields: If you could provide us with a copy of that, that would be helpful.

Mr. Rapisarda: Okay.

Mr. Fields: So, given the reason why you can't collocate, what is the logic behind the 175 foot height? Does it have to be 175 feet? Could it be less?

Mr. Rapisarda: We did the analysis. It does have to be 175 feet to meet the minimum coverage objectives. And so, basically, the radio frequency engineer... whenever we have this you don't just... they're not just pointing their finger at a height and figuring it out. They are looking at what their minimum cover objectives are and then we're really moving up from there. So you'd start at a hundred feet... well, actually we knew it was going to be more than that because there were three towers in the area that we looked at before. There were three towers and then five properties before we came to the conclusion that this tower needed to be built here. The three towers were ruled out and this is detailed in the cover letter/justification statement that was submitted with the original package, and that was from AT&T dated February 16, 2010. And that details the three towers. There was an available rad center, there was an available height for antennas at one. The radio frequency engineers did the analysis, similar to the propagation maps that you saw that Mr. Hess had up, and the coverage area was significantly smaller. This is in Exhibit H to that original package. It shows there was one tower out there that we would have been able to put antennas at 168 feet. This is a tower owned by SBA and the coverage was minimal. It looks to be about ten percent of what the coverage we would get from this proposed tower. And Exhibit I shows another one and this is a Cox Cable tower. And this was at seventy-five feet there was an availability. And you can the actual coverage from that seventy-five feet is bigger; it's still thirty percent of what we would need to provide but it's still a lot larger than the 160 feet. And so, why is that? If it's 160 feet it should be better coverage. Well, it takes into account topography. That's probably the biggest issue. And the topography is really an issue because the ground and the mountains and the hills and the trees create clutter and it's the same clutter the concrete causes. It's why you have worst typically less coverage in your house than you do outside; it's because the clutter, which is your house. And so we looked at it at various heights; 155 feet, 175 feet, 195 feet... 195 feet we would still be able to not have lights. So it would still be complying with the ordinance where you wouldn't have lights. And, at that point, you've now... the cost benefit analysis, well now we have more visual impact and the coverage is minimal. So at the 175

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foot is where you could maximize coverage at the lowest height. And the RF engineers run that up and that's how they arrived at 175.

Mr. Fields: Okay. Who's involved in the ownership and construction of the towers? Is AT&T the sole, other than the Star Group which owns the property, is leasing the property to AT&T, is AT&T the sole entity involved in the tower construction, maintenance and installation and operation?

Mr. Rapisarda: Well, AT&T will have contractors doing the work.

Mr. Fields: Physically doing the work. But as far as any long term, other than a fixed contract for a specific piece of structural work, what about maintenance? Are there other entities involved on a long term basis, on the operation and maintenance of the tower?

Mr. Rapisarda: Right. The maintenance of this tower, it's an unmanned facility, and it would be one AT&T technician that would visit the site in a regular size vehicle like as SUV approximately one time per month or one time every four to six weeks. And that is an AT&T person.

Mr. Fields: I'm just saying, because we've had cell tower cases before, both when I've been on the Planning Commission and specifically the Board of Supervisors where there were multiple entities, layers of ownership and liability and responsibility involved, and so it seems by the Affidavit that there's really only two entities involved here as far as that goes. But I just want to make sure that that's indeed the case.

Mr. Rapisarda: Well, my understanding is that, and I'm not involved in the leasing side of this, but that the radio station will be the owner of this tower after it's constructed, and AT&T will be leasing the space from them.

Mr. Fields: So the radio station, at the end of the day, will actually own the tower?

Mr. Rapisarda: Yes.

Mr. Fields: Even though AT&T is building it; they're paying to have it built?

Mr. Rapisarda: Yes. Well actually I'm sure that that's the case but I'm not involved in any of the leasing issues or the (inaudible)...

Mr. Fields: So AT&T is paying the cost, the construction cost, of building this tower? That it will then not own but lease space from... the ownership of the tower will then, at it's completion, will go to the Star Companies who is then not only collecting a lease from AT&T but also free then to lease other space on the tower.

Mr. Rapisarda: I'm not sure about the leasing agreements. And presumably there was a reduction in the lease when the ownership transfers. But I don't know. Presumably there's got to be, I would imagine, somebody is going to try to recoup some capital costs at some point and maybe that came into the lease agreement, but I don't know. Those are part of the contract details between AT&T and the radio station.

Mr. Fields: Certainly. We're just trying to... this is my end of the world here so I've got to be very... You know, obviously there are some concerns about the absolute this is the only place in this part of

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the world you can do this because putting two towers and one site and mostly you're putting them smack in the middle of a residential neighborhood. Now, of course, certainly with the other tower there it's a pre-existing situation. But, I'm just trying to get out... because I've had some communication from citizens about this. Are there any other questions for the applicant before we open the public hearing? Ms. Kirkman?

Ms. Kirkman: Yes, Mr. Chair. So, I just want to be clear that the tower itself, AT&T, at the end of the day, may not be the only lessee of the tower; there may be others as well. That's potential?

Mr. Rapisarda: Yes, this tower will be built, will be constructed to provide space for three carriers, AT&T being one of them.

Ms. Kirkman: Three carriers. Okay. So, physically, if there's additional carriers, there's additional equipment on the tower?

Mr. Rapisarda: There is additional equipment on the tower and that was shown in the slide of the GDP. I don't know if you are able to put that up. It's the elevation diagram, the elevation design.

Mr. Fields: It's here; it's on the CUP, page 5.

Ms. Kirkman: And then you mentioned Mr. Wilk is here. Mr. Chair, could we have him step forward at some point?

Mr. Fields: Sure.

Ms. Kirkman: To talk about the landscaping issue.

Mr. Fields: Yes, that's fine.

Ms. Kirkman: Thank you.

Mr. Rapisarda: Thank you.

Mr. Fields: Alright, any other questions?

Mrs. Hazard: Yes. Going along with what we're talking about, I just wanted to highlight our number 12 in the CUP relating to... I just want to make sure because of the issues we're raising here about future carriers or future providers, about them having to provide these studies to make sure it doesn't interfere with that Stafford communication on the other tower. And I just... I'm a little uncomfortable at the moment of who that's provided to; where that goes. And I'm just highlighting that for my fellow members that I have some... I just want us to really focus on that language since it is owned by one. I just want to make sure we have extended the right authority to make sure that there is not going to be any conflict with the Stafford County related communication system.

Mr. Fields: Okay. I believe you have a study here, right, the Woodlawn study. Is that the one that has to do with the compatibility?

Mr. Rapisarda: Yes.

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Mr. Fields: Okay. And on this, there's a lot of paper here so excuse me if I haven't covered all this, the Sheriff's office, the public safety people, have they reviewed all of this and they've signed off on this? Given their okay? Do you know? Staff or anybody?

Mr. Harvey: Mr. Chairman, I'll have to ask Mr. Hess to address that. I know he's had discussion with them about this particular case.

Mr. Hess: That is correct. I had the Intermodulation Study sent over to the Sheriff's office. Carol Adams is the Communications Manager for the Sheriff's office so she is the one who was provided the study and she had personnel review it. And they responded back to me email saying they concurred with the study, that it did not conflict with the County's equipment.

Mr. Fields: Okay.

Mr. Hess: And she is here tonight.

Mr. Fields: Alright. So, I think we are looking if Mr. Wilk could give us a couple minutes of your time.

Mr. Rapisarda: Thank you very much.

Mr. Fields: Thank you.

Mr. Wilk: Good evening Mr. Chair, Commissioners.

Mr. Fields: Good evening. I think the first question was Ms. Kirkman's relating to the landscaping.

Ms. Kirkman: Sure. I guess I would like to hear why FLS agreed to a landscaping condition...

Mr. Wilk: We never did agree to a landscaping condition. I believe that was the County...

Ms. Kirkman: Imposed that condition.

Mr. Wilk: Correct.

Ms. Kirkman: And now you are taking this opportunity to get rid of that condition.

Mr. Wilk: I believe the County actually was trying to get rid of it from the beginning when they applied to go on the tower, on our existing tower. We were opposed to it all the time and that's when I sent the letter stating the reasons why. These ground radials, there are 120 of them, about six to ten inches under the ground. And with planting of trees... the initial planting isn't really the problem other than having to locate all the radials and reconnect them; it's when the roots grow. They begin to pull and tug at the wires and that's what eventually they'll disconnect from the tower.

Ms. Kirkman: So, you all have been opposed to this condition and then the Board of Supervisors imposed the condition when they approved the CUP in 2008.

Mr. Wilk: I believe so.

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Ms. Kirkman: Okay, thank you. That's helpful.

Mr. Fields: Okay, and I think, Mr. Wilk, you were involved in the structural analysis on the capacity of the tower?

Mr. Wilk: Yes. Once the County added the equipment... there were actually two analysis done; one with just the County equipment, one with the AT&T equipment as well as the County's equipment. The first past with some structural modifications that the County did, but even with those modifications the additional equipment that AT&T was proposing would overload the tower.

Mr. Fields: I see. So these towers are, because of their height, they're just a little more fragile then because the typical like two hundred and some foot lattice tower that you see can hold a lot of stuff, right?

Mr. Wilk: Sure. Yeah, most of those are self-supporting towers. This is a guyed tower that basically rests on a point of about six inches when it comes down to the base.

Mr. Fields: Wow!

Mr. Wilk: So, even though it's solid steel, there are limitations to it.

Mr. Fields: Okay. Are there any other questions for Mr. Wilk? Thank you very much; we appreciate it. If there are no more questions, we will proceed to the public hearing. And obviously, if there are questions raised in the public hearing, I'm sure the applicant and staff will be happy to address those. So, at this point, we will open the public hearing. We are combining the public hearing on both the Comprehensive Plan Compliance Review and the Conditional Use Permit for the Telecom Tower, AT&T @ Mountain Avenue. So, with that, is there anybody from the public that wishes to speak for or against these two items? Please step forward to the podium. You have three minutes. State your name and address for the record. It doesn't look like anybody wishes to come. This is your last chance. Alright, seeing no one has stepped forward to speak, I will close the public hearing. This is in the George Washington District so, we received a lot of information, when this appeared in the packet, this was the first time I had heard about this application at this point. So, I will need to schedule a meeting with the applicant and staff to go on site and take a look at some more of the materials. I noticed that photographs of the trial balloon were not included in this packet; am I correct? I looked for them but I don't see them. Just in preparation for that meeting, I would need to see those. And actually I have one more question for the applicant. Did anybody from AT&T or the Star Group, at any point, have you gone around to the neighborhood and spoken to all the people in those neighborhoods about this tower? Have you asked them how they felt about it and that sort of thing?

Mr. Rapisarda: From AT&T's perspective, we have not spoken to anyone. We did do the mailing and the posting. We understand from the land owner that, in fact, the letter that I just submitted that was signed by the two neighbors that are the ones that have the view, it says the AT&T tower. So I know that there has been communication among everyone that AT&T is proposing a tower.

Mr. Fields: People are aware of it. I've had a couple people call me concerned about it, so I owe it to them as their Planning Commissioner and to Mr. Crisp who ultimately will be looking at this to make sure that we're making as thorough recommendation as possible. So, if there's no more questions, even though I'm acting as Chair, I will go ahead and make a motion to defer. There's an interesting time limit on this. When do we have to advertise? I noticed in the packet, and Jeff was saying, there's

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actually a time limit because of a new federal regulation that only gives you a certain number of days to approve telecommunication facilities, whether you like it or not. Just what we need, another federal mandate. So, when do we need to... we need to make our recommendation by October 6, is that correct Jeff?

Mr. Harvey: That's correct. That would get the Board their opportunity to take it up in November.

Mr. Fields: Okay. We have the end of summer. I would like to defer this to the September 15th meeting. If we resolve it quicker, great; that way it will give me plenty of time to schedule this with the end of summer. And I know I'm going on vacation next week etcetera, etcetera.

Ms. Kirkman: I'll second.

Mr. Fields: Second. Alright, is there any discussion on the motion? All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Alright, motion passes 5 with 0. I will work through staff to contact the applicant and set up a meeting on site. I know for future materials, certainly the photograph things of the trial balloon I would like to see have ready, and then we'll go from there.

Ms. Kirkman: And could we get a copy of the federal requirement regarding the timeline?

Mr. Fields: Okay.

Mr. Mitchell: Mr. Chairman, do we need to do a similar motion on number 9?

Mr. Fields: Yeah, I think for housekeeping, that's appropriate. Alright, also I make a motion to defer item number 9, Conditional Use Permit, to September 15th.

Ms. Kirkman: Second.

Mr. Fields: Second. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

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Mr. Fields: Aye. Opposed? Alright; thank you Mr. Mitchell.

10. COM1000090; Comprehensive Plan Land Use Amendment - Fairfield Inn and Suites - A proposal to amend the Land Use Plan component of the Comprehensive Plan in accordance with Section 15.2-2229 of the Code of Virginia (1950), as amended. The proposed amendment would redesignate Assessor's Parcels 30-2C, 30-2D, and 30-5 from Urban Residential use to Urban Commercial use. The subject area consists of 5.34 acres and is located on the east side of Jefferson Davis Highway and the west side of Derrick Lane, approximately 2,000 feet south of Garrisonville Road, within the Aquia Election District. **(Time Limit: October 17, 2010)**
11. RC1000091; Reclassification - Fairfield Inn and Suites - A proposed reclassification from R-1, Suburban Residential Zoning District to B-2, Urban Commercial Zoning District to allow the construction of a hotel on Assessor's Parcels 30-2C and 30-2D. The subject area consists of 1.48 acres and is located on the east side of Jefferson Davis Highway and the west side of Derrick Lane approximately 2,000 feet south of Garrisonville Road, within the Aquia Election District. **(Time Limit: November 16, 2010)**
12. CUP1000092; Conditional Use Permit - Fairfield Inn and Suites - A request for a Conditional Use Permit to allow a hotel within the Highway Corridor (HC) Overlay District on Assessor's Parcels 30-2C, 30-2D and 30-5. The subject area consists of 5.34 acres and is located on the east side of Jefferson Davis Highway and the west side of Derrick Lane approximately 2,000 feet south of Garrisonville Road, within the Aquia Election District. **(Time Limit: November 16, 2010)**

Mr. Rhodes: Ten, 11 and 12 are deferred?

Mr. Fields: Ten, 11 and 12... are they deferred or withdrawn temporarily or withdrawn forever?

Mr. Harvey: Mr. Chairman, they've postponed the public hearing to September 15th.

Mr. Fields: Oh, okay.

Ms. Kirkman: What was the issue? There was reference to some discrepancies.

Mr. Harvey: Yes. When staff was preparing the report we realized what they had done is apply for a new CUP on two parcels to be rezoned and also a parcel that had been previously zoned. When we looked at it, the parcel that was previously zoned already had a CUP on it that said that they would be limited to one hotel. So when you looked at the overlap you had an area that would have potentially two CUPs on it each saying there'd only be one hotel and technically there would be two hotels. So we felt that that was a discrepancy in the application that would invalidate the hearing. And the applicant, after discussions with his client, or the attorney, after discussions with their client, decided to pull all three cases for public hearing, because the rezoning application as well as the Comprehensive Plan Amendment application were complete and could have gone forward.

Mr. Fields: Okay.

Ms. Kirkman: And what is the resolution to that issue?

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Mr. Harvey: The applicant is going to amend their application and I understand that they're going to ask for an amendment to a CUP rather than a separate CUP.

Ms. Kirkman: Okay, got it. Thank you.

13. Amendment to Subdivision and Zoning Ordinances - Amendment to Section 22-4, Definitions, and Section 28-25, Definitions of Specific Terms, of the Subdivision and Zoning Ordinances pursuant to proposed Ordinance O10-38. The proposed ordinance adds family member's spouse to the definition of immediate family member in the Subdivision and Zoning Ordinances and adds stepchild and sibling to the definition of immediate family member in the Zoning Ordinance. The amendments make the definitions consistent with each other and state law. **(Time Limit: August 31, 2010)**

Mr. Fields: Alright, moving on we have number 13, Amendment to the Subdivision and Zoning Ordinance.

Mr. Harvey: Please recognize Andrea Hornung for the presentation.

Mr. Fields: Mrs. Hornung. Thank you for joining us this evening.

Mrs. Hornung: Thank you. Thank you Mr. Chairman, members of the Commission. I have lucky number 13 and that is the Amendment to the Subdivision and Zoning Ordinance. And what this actually does is it brings the Ordinance in line... the definition of family, immediate family member, in line with the State Code. The Board of Supervisors had referred Resolution 10-171 to you for the Ordinance O10-38 and the only item that is actually changing in that definition, which actually came after the previous definition of family had already gone through, was that the General Assembly this year had added family member spouse to the definition of who a family subdivision lot can be transferred to. What had happened in other localities in the State of Virginia... I'm sorry, Commonwealth of Virginia is that some County Attorneys had interpreted the definition that a family subdivision could only be transferred to an immediate family member and that would be mother, father, sister, brother, grandparent and sibling. I said sibling, sorry. And it didn't include a family member spouse. So, if the parent wanted to transfer a lot to their son- or daughter-in-law, son-in-law, daughter-in-law, they couldn't do it by the interpretation of that particular County Attorney of those localities. So that was before the General Assembly which I had been at that particular meeting when the Commission on Local Government had decided on that. So, that's what we're adding. And then in preparing the definition in the Subdivision Ordinance, staff compared the definition in the Zoning Ordinance and realized that from a previous ordinance, stepchild was not included in the Zoning Ordinance. So that's why the Zoning Ordinance definition includes stepchild and family member spouse and sibling. And so both definitions actually read exactly the same in the language in the order of the terms so there's no confusion. And this Ordinance is ready for your consideration. And the State Code references are 15.2-2244 and 2244.1.

Mr. Fields: Alright, is there any... are there any questions for Mrs. Hornung?

Mrs. Hornung: And staff recommends approval, excuse me.

Mr. Fields: Alright. Are there any questions for staff at this point? Alright, hearing none I will open the public hearing. Is there anybody in the room that wishes to speak for or against this amendment, these proposed amendments? Alright, seeing nobody stepping to the podium we'll close the public

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hearing. So, basically what we're doing is essentially this is just housekeeping. We're bringing our code in compliance with State Code. So, is there anybody that wishes to make a motion?

Mr. Mitchell: Motion for approval Mr. Chair.

Mr. Fields: Okay, Mr. Mitchell recommends... motion that we recommend approval to the Board of Supervisors.

Mr. Mitchell: Recommend approval for proposed Ordinance O10-38.

Mr. Fields: Alright. Is there a second?

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Any discussion? Alright, all those in favor of recommending approval to the Board of Supervisors signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Alright. Number 14.

14. Amendment to Subdivision Ordinance - Amendment to Section 22-131, Security Requirements, of the Subdivision Ordinance pursuant to proposed Ordinance O10-39. Under the proposed ordinance, requests for release of securities for public improvements are submitted to, and granted or denied by, the public works department and partial releases shall be made in accordance with the security policy. **(Time Limit: August 31, 2010)**

Mrs. Hornung: Mr. Chairman, members of the Planning Commission, this is also another Ordinance amendment that is housekeeping as well. The Board of Supervisors referred Resolution R10-172 to the Planning Commission to consider the Ordinance, O10-39. What this does is this brings the section of the Subdivision Ordinance referring to securities in line with the Senate Bill SB318 which discussed the financial assurances prior to acceptance of public improvements. So the language that's changing in the Subdivision Ordinance is changing the department name to Public Works and also changing the one statement that it originally stated that "the partial releases shall be made up to an amount cumulatively equal to no less than ninety percent of the original total cost of construction of facilities for which the security was required". Most of that language has been stricken so that that item will state "partial releases shall be made in accordance with the Security Policy". And the Board has adopted the revised Security Policy I believe it was this year... no, I'm sorry, May 2009 is when the Security Policy was updated. So that way anything in the Subdivision Ordinance that is referenced to the Security Policy, people will be referred to the exact Security Policy; so that if it does need to be amended from time to time, we wouldn't have to come back before you or the Board and amend the Subdivision Ordinance. And there are certain requirements which you have a copy of in your packet of how it states the release procedure will happen because there's a timeframe and that type of thing.

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Mr. Fields: You're referring to Attachment 3 right?

Mrs. Hornung: Yes sir.

Mr. Fields: The Stafford County Security Policy amended May 2009.

Mrs. Hornung: Correct. So this is just another housekeeping item that brings the Ordinance in line with an adopted Security Policy and its reference Virginia Code 15.2-2241 and 2245. And staff recommends approval and it's ready for your consideration.

Mr. Fields: Is the Security Policy part of the Code of Stafford or is it a document that exists outside the Code?

Mrs. Hornung: I believe it's... it's by reference so it's not in the Code of the County but it's a referenced policy; that it's on its own. And if I'm incorrect maybe Mr. Smith can correct me.

Mr. Smith: Mr. Chairman, it's not codified as part of the Stafford County Code, if I understood your question correctly.

Mr. Fields: Understood. I understand the logic, I'm just sort of... this prior language of course was clearly ensconced in the Code section. If you looked at Section 22-131 you could see exactly how partial releases were done and that was obviously done... I haven't read the whole Security Policy. I'm not sure I'm even qualified to know exactly whether this is a great one or not. But when you reference something... if this is not part of the Code but has the equivalent force of Code because it's referenced in the Code, am I getting that right? I didn't go to law school or anything so I'm just asking a question.

Mr. Smith: Yes, it's not codified as part of the Code itself, but it is a requirement of the Subdivision Ordinance that you comply with the policy which is a Subdivision Ordinance requirement.

Mr. Fields: Are you comfortable with the language that just says "the Security Policy" as opposed to something a little more formal in terms of meaning... "*the* Security Policy of the County of Stafford" or "the Stafford County Security Policy amended May 2009"? I mean, "*the* Security Policy" is a little bit... since it's not part of the Code and its force is there by reference, I guess I'm sort of asking a question. Should we consider a slightly more tight definition of what "*the* Security Policy" is? I guess I'm sort of asking for an opinion but... or do you think in your legal opinion does it matter?

Mr. Smith: From a legal perspective, I think it's adequately referenced. But I certainly think that clarifying that it's "the Stafford County" or "the County" Security Policy makes it even more clear.

Mr. Fields: Okay.

Mrs. Hornung: And, excuse me, Mr. Chairman we can also add the language that the Planning Commission requests but also say "as amended" so that way whenever the Security Policy is amended, that would be covered in the Ordinance so we wouldn't have to come back and change the Section.

Mr. Fields: I don't know how the rest of you feel; you know, this is maybe really just being picky but I would feel a little more comfortable with "in accordance with the Stafford County Security Policy, as amended", you know, whatever is the exact title of the document so that's it's not ambiguous. "In

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accordance with the Stafford County Security Policy, as amended”. Does anybody else have any feelings about that?

Ms. Kirkman: Mr. Chair, I actually think there’s some even bigger issues here that I hope we’ll get the opportunity to discuss.

Mr. Fields: Well, I guess we’re asking questions, so I guess I’m kind of drifting off questions aren’t I and being a little bit work session-y... I’m sorry. Any other questions before we actually open the public hearing on this?

Ms. Kirkman: Yes, I have a question. You referenced several times that this is to bring this in line with changes with the State Code. I’ve read through the State Code several times and, in particular, the italicized sections that highlight the changes. And I don’t see reference to a Security Policy anywhere in there. Can you please explain what exactly the changes that is... first off, are there any changes that are required by the State Code or is this optional? And the second question is what exactly is the option that the State Code is offering and how does this comply with that?

Mrs. Hornung: In the State Code it says at the option of the governing body.

Ms. Kirkman: Okay.

Mrs. Hornung: And the section that was actually changed was... let me go back to the sentence. Well, the sentence is the whole paragraph, but starting in the middle, “financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs had been paid to the person constructing such facilities...”. And now the following is the new language that was adopted this year, “or, at the option of the local governing body, presents evidence satisfactory to the governing body that the time for recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the governing body or its designated administrative agency”. And then the rest of the language is what was existing. This section...

Ms. Kirkman: Right, so that’s regarding mechanics liens and, in fact, the language that’s being struck from the Ordinance is regarding the amount. And it basically says that there can be partial releases that don’t go any more than ninety percent of the construction costs, which is very different than a mechanics lien issue.

Mrs. Hornung: Right. And this was brought before us from the Public Works Director who handles the Security Division. And what this does is this does not, for lack of a better term, ties the County’s had to do a partial release of ninety percent because at different times the financial assurance for public improvements may need additional work or the amount that was bonded in forward years may be at a different cost. So this doesn’t require the County to go up to ninety percent. There was the discussion of do we change it and not release as much as seventy-five percent, but the decision from the Public Works Director was to just have the partial release to be in accordance with the Security Policy. And then a section of the Security Policy gives procedures that depending on the physical improvements, when they’re completed, having a punch list, having a timeframe, so it gives a little bit more time for those improvements to be completed before the release of the bond takes place.

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Ms. Kirkman: But what is the thinking... the current language does not say that ninety percent has to be released, it only says that *up to* ninety percent can be released. I guess my concern is that are we opening the door that there can be a partial release now of large amounts. And I'm concerned about that because we've had a number of situations now where what's left of the security bond, the developer flees the project, leaves the roads in disarray and there isn't enough money left in the security bond to fix the roads.

Mrs. Hornung: I think by taking out, if I understand correctly what you're asking and discussion with the Public Works Director, that what it said before, it said "an amount that is cumulatively equal to no less than ninety". That means that the County was bound to release ninety percent regardless of what was done. So by updating this with the Security Policy, there is no amount that's required to be released unless a hundred percent is complete and the inspection shows that there is no additional punch list items that needs to be completed. And then also many times bonds are posted in prior years and it may be more expensive today or next year than it was at the time that it was bonded. So, by taking out a finite amount of what would be released, there is some leeway so the release of the bond is not... you're not bounded to a finite amount. There's a little bit of flexibility there.

Ms. Kirkman: But it says "up to" and I don't understand how "up to" binds the County to ninety percent.

Mrs. Hornung: Because it says "up to an amount that is cumulatively equal to no less than ninety percent".

Ms. Kirkman: Right; up to meaning anything less than up to ninety percent. Perhaps the attorney could clarify this.

Mr. Fields: I agree. It seems to me to be discretionary; you could do ten percent, you could do twenty percent, fifty, eighty... I don't understand.

Mr. Smith: I don't know how the Public Works Department has interpreted that language. I would have to go back and discuss it with them and see if they were interpreting that language the way that Mrs. Hornung has explained it or the way that you (inaudible).

Ms. Kirkman: But you've got the language in front of you. What is your understanding of what the language means?

Mr. Smith: Well, I think what I interpret it to mean could be different than what Public Works has been interpreting it to mean.

Ms. Kirkman: Sure, but I'm asking you how you understand the language.

Mr. Smith: I think that both interpretations are plausible and reasonable, so I think we need to talk to the Public Works Director and see how they have been interpreting it to make sure that we're representing it correctly.

Mr. Fields: Okay.

Mr. Harvey: Mr. Chairman, we can certainly invite the Public Works Director to come to a future meeting and speak directly to the Commission with regard to why he felt the need to move this

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Ordinance forward and also what his interpretation and their department's execution of the policy has been.

Mr. Fields: That might be very helpful.

Ms. Kirkman: Mr. Chair, it would be but we have a time limit of August 31st on this.

Mr. Fields: Well then I guess we're not going to do that, are we?

Ms. Kirkman: Which is why something other than well both are valid would be helpful.

Mr. Fields: Okay. And this came through at the request... the Security Policy was created and this is all moving through at the request of the Public Works Director? Am I getting that right?

Mrs. Hornung: Yes sir.

Mr. Fields: Okay. So they feel that what they've crafted here is an improvement over the existing pre-existing policy?

Mrs. Hornung: Correct.

Mr. Fields: In terms of protecting the County from getting stuck. I certainly agree with Ms. Kirkman there has been some pretty egregious examples of this over the years. Well, if there are no more questions we can, at least for the moment, we can open the public hearing and procedurally move through that phase. At this time I'll open the public hearing on this item. If there is anyone that wishes to speak for or against, please do so now. Seeing no one moving forward to speak then I will close the public hearing. Alright, what is the will of the Commission here? It looks like we are pretty much at the point of voting this up or down tonight, with a time limit of August 31st; a voting of recommendation up or down.

Mr. Mitchell: Mr. Chairman, I make a motion to send up for approval Ordinance O10-39. It seems reasonably harmless. We could bring in the people from the other departments and get their interpretation but it seems a very harmless situation. I don't think it will hurt the County.

Mr. Fields: Alright. So, Mr. Mitchell makes a motion to recommend approval. Is there a second?

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Is there any discussion? Questions?

Ms. Kirkman: Mr. Chair, I'm going to abstain from voting on the motion. I don't feel like we've been given adequate time to review this given some of the questions that were raised today. And I'm not comfortable voting for or against it because of that.

Mr. Fields: Alright. Any other discussion or questions?

Mrs. Hazard: Mr. Chairman, the proposed language that you had added earlier about in accordance with the Stafford County Security Policy as amended, I would ask Mr. Mitchell if he would revise it to include that language.

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Mr. Mitchell: Mr. Chairman, I will gladly add that to my motion, those additional words, to pin it down to that specific policy.

Mr. Fields: Okay. Again, what I have notated is "Stafford County Security Policy, as amended". Mr. Mitchell's okay with that. Mr. Rhodes, you're okay with that?

Mr. Rhodes: Second.

Mr. Fields: Alright. Yeah, I kind of wish that we had an opportunity to speak with the Public Works person. Well, I guess the failsafe of that... well, I'll tell you what. We can do a follow-on. How about this? We obviously have to make a vote of a recommendation tonight which we'll do. Following that vote or concurrent with it, I would still request that the Public Works Director come to our next meeting, if we could, and amplify that. And so, since we're referencing the Security Policy as amended, we have an amendable document there that if we decide on our work session with the Public Works Director that somehow what we're referencing is the standard that we have some comments on how that could be better. I would assume that the Security Policy, as an amendable document, we could recommend a request that the Board consider an amendment or recommendation. So, that way we comply with our requirement to do August 31st, but I still would like the discussion with the Public Works. It may be very brief and we can clear this up fast. But I share Ms. Kirkman's concern that there's a little bit of... this is kind of complicated stuff and hard to get your head around exactly.

Mr. Rhodes: Mr. Chairman, I would just also suggest that as we have on some others when we've had clear dissenting views or clear concerns, that we make sure to specifically share with the Board of Supervisors, while we proceed on this however we'll vote and if we vote forward, just make sure to clarify that there were some areas of concern that we're still following up on; so that that at least gets represented to them while we're doing this.

Mr. Fields: Good point Mr. Rhodes; well taken. Ms. Kirkman.

Ms. Kirkman: Mr. Chair, I have a question. The Security Policy... so that's not adopted through an Ordinance, it is adopted by the Board. Is a public hearing on the Security Policy?

Mr. Smith: I believe a public hearing is held and it may be adopted pursuant to an Ordinance. I'm not positive whether it's adopted pursuant to an Ordinance or a Resolution. It could be adopted pursuant to an Ordinance; it's just not codified in the Stafford County Code. So, it is passed as an Ordinance but it's not included in the Code volume itself.

Ms. Kirkman: Could we get clarification on what the exact process is for that?

Mr. Fields: Okay.

Ms. Kirkman: Thank you.

Mr. Fields: So, let's ask for the vote and then I'll make the comments. All those in favor of recommending approval to the Board of Supervisors signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

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Mr. Mitchell: Aye.

Mr. Fields: Aye. Opposed? And abstentions?

Ms. Kirkman: Aye... well, I abstain.

Mr. Fields: Yeah, what do you say to an abstention?

Ms. Kirkman: Aye to the abstention.

Mr. Fields: Aye to the abstention. Hmmm... there's a conundrum. Alright; and one abstention, two absent. And then I think we have consensus that we would like to request the Public Works Director to go through the Security Policy with us at the next Board meeting. Tell the Board that we were in general understand the process but we felt a little bit in the dark about some of the information and are seeking clarification on the Security Policy. And that's the reason for the abstention and the non-unanimous vote. Does that cover everybody's concerns?

Mrs. Hazard: Mr. Chairman, if I could add I think it was really saying Ms. Kirkman's concerns but that we are trying to make sure that the integrity of the release is not less than what we have now.

Mr. Fields: That's correct; that our concern is that this is indeed an improvement and that's what we don't seem to quite have enough information to make a decision on.

Ms. Kirkman: And particularly, how it is that we end up in situations where projects have not been completed and there have been partial releases and now there's no longer the money in the performance bond to cover the incomplete work. And we've got one of those in my district right now.

Mr. Fields: Okay. My assumption, of course, the hope would be that in response to some of those failures of the security system, this is an improvement. But we'll get that from the Public Works Director. Alright.

Mr. Mitchell: Mr. Chairman, not to be rude but point of order.

Mr. Fields: Yes sir.

Mr. Mitchell: We've already voted on it and now we're discussing it again.

Mr. Fields: Okay. Well, Mr. Rhodes simply requested that we make sure that our dissent or concerns were expressed as part of the record to the Board, so that's what I was doing.

Mr. Mitchell: Okay.

Mr. Fields: I'm not trying to debate the issue but your point was well taken.

Mr. Mitchell: Mr. Rhodes commented, Ms. Kirkman commented, you commented ...

Mr. Fields: Okay. Point well taken... moving on.

Mr. Mitchell: Thank you Pete.

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3. Amendments to the Comprehensive Plan (Time Limit: September 7, 2010) (In Comp Plan Committee) (Deferred to August 18, 2010) - Continued

Mr. Fields: Alright. I think we're back to the Comp Plan, item 4, page 10, build-out analysis of the latest Land Use Map. And Ms. Kirkman had questions regarding that. I think that's where we stopped. Everybody with me on that? Okay. Thanks for waiting around Mike; we appreciate it. If the County has a medal, you get it for this Comp Plan process.

Mr. Rhodes: It would be a big medal.

Mr. Fields: You've been with us a long time. I hope you get a chance to present at an APA... you should probably do a presentation at an APA Conference on this one.

Mr. Zuraf: The longest standing process?

Mr. Fields: Are we setting a record for the longest a county has taken to rewrite a Comp Plan?

Mr. Zuraf: We might.

Mr. Fields: It's pretty long; five years now, right?

Mr. Zuraf: I'm guessing though it's probably common elsewhere as well thought.

Mr. Fields: Well, that was very diplomatic of you; I appreciate that. But at any rate, whether it's a record or common practice, you still get a medal for sticking with it for five years. That's a long time to have that on your plate. Okay. So, that being said, we're looking at the build-out numbers now. Ms. Kirkman?

Ms. Kirkman: I'm trying to find that paper right now, thank you.

Mr. Zuraf: In the build-out, we followed the...

Mr. Fields: You're talking about Attachment 5 of item number 3? The June 17, 2010 version.

Mr. Zuraf: Yes. And the Land Use Plan build-out follows a similar version that was prepared under the 2008 and 2009 versions of the Land Use Plan, in that it accounted for and assumed full build-out given specific parameters across the County, given specific land use and density parameters across the County, subtracting out existing dwelling units, accounting for land that already has approved subdivisions, and then taking the difference and applying land use potential to those areas. So, on the chart you have overall acreage but then within in you have your existing units which correspond with the existing units as we have in the growth projection table. And then for future units you have the different types of future units based on approved subdivision plans, then based on that land use potential and then you add those two columns up to get your total future units. Then your future units area added to your existing units to get the total dwelling units.

Mr. Fields: So, we're talking about in this build-out are we universally talking a twenty year horizon on this or simply...

Mr. Zuraf: The full build-out is not tied to a timeline...

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Mr. Fields: It's whenever, but based on the permitted uses as defined in the plan.

Mr. Zuraf: If all things remain the same and the County continues to develop out, whenever that was.

Mr. Fields: So, under the June 17 plan, at whatever future point, assuming no other changes, then you would max out at 66,650 dwelling units. Am I reading that right?

Mr. Zuraf: No. Down at the very end...

Mr. Fields: Oh, suburban and urban, right; 88,000.

Mr. Zuraf: That's inside the Urban Service Area. So then it continues to the next page and then you have a number for the rural areas.

Mr. Fields: So, the total is 109,000.

Mr. Zuraf: Yes.

Mr. Fields: Holy cow! That's a lot of houses.

Mr. Zuraf: Some of the differences you have in the urban area, within the urban area basically what we did there was it was a little more simplified and that the remaining land we applied both a four dwelling unit per acre density to all available land and then the .4 FAR so you kind of have a little combination of across the board, across all available land in those urban districts.

Ms. Kirkman: I have a question about that. In all prior drafts on the build-out, the thinking was we needed to understand what the maximum exposure of the County was, so that the build-out was conducted at what was the maximum highest potential of the land. Now, I believe right now the zoning district that we have that most closely corresponds with the UDAs is the TND is correct; is that correct?

Mr. Zuraf: Right.

Ms. Kirkman: And what's the potential build-out on TNDs? That zoning district? What's the highest possible residential build-out per acre?

Mr. Zuraf: The highest density? I don't know that off the top of my head. I'd have to get that...

Ms. Kirkman: I seem to remember it was around ten units per acre?

Mr. Zuraf: Is it ten?

Mr. Rhodes: For one segment of it, right?

Ms. Kirkman: No, actually the overall you could have up to forty-eight but that the average was ten. Is that right?

Mr. Zuraf: I think Jeff has his Zoning Ordinance.

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Ms. Kirkman: Okay, let's get clarification on that.

Mr. Zuraf: Yeah, because we applied the four unit per acre density in the UDAs, in this table.

Ms. Kirkman: But aren't there, under the state mandates, doesn't it allow for higher densities depending on the type of dwelling units? I seem to remember like twelve per acre...

Mr. Zuraf: It goes up to twelve, yeah.

Ms. Kirkman: Up to twelve. So how did you decide on something that was a third less... that was two-thirds less than the maximum?

Mr. Zuraf: Well, the fact that in these urban areas you're combining your full potential of commercial with residential. It's kind of the likelihood of a full Urban Development Area developing as both commercially and residentially to that potential would seem excessive. So, we went with the four and .4 across the area.

Ms. Kirkman: But the notion was to get a build-out that was comparable... and, in fact, you said the consultant was looking for an apples to apples comparison. And when we did the build-outs for the previous drafts we did assume the maximum residential build-out. So I think in the UDAs we assumed ten units per acre.

Mr. Zuraf: Okay. We can definitely revise this and increase it to ten units per acre if that's (inaudible).

Ms. Kirkman: Well, I don't know what's most appropriate, whether it's...

Mr. Zuraf: If it's a full comparison of...

Ms. Kirkman: Does staff agree that the TND Ordinance is what corresponds with the UDAs?

Mr. Harvey: Ms. Kirkman, getting back to your first question, the maximum density is ten dwelling units per gross tract acre.

Ms. Kirkman: Right, so there's no allocated density on that.

Mr. Harvey: There's no net density, yes.

Ms. Kirkman: Okay.

Mr. Harvey: As far as the existing zoning districts, the TND would be the only district that would allow mixed use type of activity. Our current commercial zoning districts are capped at the minimum threshold as far as FAR. You can get some exceptions to that with a CUP for a hotel, but that's really the only use that can meet the threshold, or go above the minimum threshold that the UDA legislation requires. As far as residential is considered, we also have the R-3 zone which currently allows seven dwelling units an acre for multi-family, and then up to fifteen units an acre if you have a cluster or townhouse subdivision. And that might be able to meet a component of the UDA, but certainly wouldn't meet the commercial requirement.

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Ms. Kirkman: Mixed use piece. So the TND is probably the zoning district that we have that would correspond with UDAs.

Mr. Fields: But in calculating those, right, you have to... there's a combination... you can't... if you have let's say a hundred acres that you want to... well, if you're arguing it, that's too small for a TND. Let's say a thousand acres for...

Ms. Kirkman: Not in Stafford!

Mr. Fields: Yeah, I know. A thousand acres for a TND but you can't really allocate... are you saying that the ten dwelling units per acre, per gross thing, is the average assuming of course that because of its mixed use mandate, all of it can't be residential, a lot of it has to be commercial.

Ms. Kirkman: No, you can have the Floor Area Ratio and the ten units per acre, right? Is that correct?

Mr. Rhodes: Is the question to Cecelia or to staff? Just out of curiosity.

Ms. Kirkman: I was asking an additional clarification on that.

Mr. Fields: Let's just go... so, the ten per acre is just the average throughout the whole thing, assuming that some of it's going to be higher density, some of it's going to be commercial. It's just how it all averages out for the whole parcel or just for the residential portion?

Mr. Harvey: Correct. Say for instance that the parcel was a hundred acres. The ten units an acre could potentially yield a thousand units on that hundred acres. Whether you put that thousand units in fifty of the hundred acres or ninety of the hundred acres, it's up to the developer.

Mr. Fields: But there's still a portion that has to be commercial because the TND, by definition, just can't be all residential, right? It has to be mixed use.

Mr. Harvey: I believe that's correct. There are transect zones that they'd have to identify. At least one would have to have some non-residential component.

Mr. Fields: The code section that, both 3202 and 1071, they don't reference anything quite that complex but they do reference the new urbanism, right, which is why in the UDA legislation we're assuming that we have to designate both residential and commercial areas, correct?

Mr. Harvey: Yes. The Code requires us to adopt regulations that try to assimilate new urbanism. One of the things we'll be working with our UDA consultant is to evaluate our current TND Ordinance to see if that meets the requirements of the Code. I believe we will probably be looking at other TND type of ordinances to try to address other needs or future visions for these various UDAs as we go along.

Mr. Fields: Do you think that... and I'm not trying to put you on the spot... so do you think our current TND is just only a partial tool for the implementation of the UDAs? Do you think there may be additional zoning district types that are necessary to comply with the UDA requirements?

Mr. Harvey: It may be. I guess one issue I continually hear from people with regard to this is that I need to look at what the minimum allowable under the UDAs is which is four units an acre which our

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current PTND has a maximum I guess of ten and whether you can meet the requirement of doing the twelve units an acre under the UDA, it may not fit. So we may have to have another TND type ordinance that allows a higher density in order to try to meet the UDA threshold, because if you had multi-family, you'd have to have that twelve units an acre.

Mr. Fields: Under the UDA legislation.

Mr. Harvey: Yes. And it's conceivable someone could make that work within a large tract of land, but a smaller tract of land that may not be achievable. So that may be a question for our consultant to see whether we are complying with the State requirement with our existing ordinance.

Mr. Fields: Have any other localities finished their UDA works yet?

Mr. Zuraf: The one seminar that I went to last month, which I'll get into, there was a presentation from New Kent County. They've established some UDAs and they actually have a project kind of under way in the Courthouse area of New Kent County. And also apparently Frederick County, Virginia, they apparently have certified that their plan has always allowed UDAs and they feel that their plan meets the UDA requirement.

Mr. Fields: So they felt that their existing Comprehensive Plan already met the requirements of the UDA?

Mr. Zuraf: Right.

Mr. Harvey: Also, Culpeper County recently adopted their plan to incorporate UDAs.

Mr. Fields: Okay. So, we're still at the very start of the ninety-five, getting all ninety-five on board, right? Do all the cities have to do the same thing? I can't remember. Is it all localities? All 135 localities?

Mr. Zuraf: No, it's certain localities that meet certain thresholds.

Mr. Fields: Oh, thresholds of growth, right?

Mr. Zuraf: Yes.

Mr. Fields: And how many counties, do we know? What is that, maybe thirty counties?

Mr. Zuraf: I don't know off the top of my head.

Mr. Fields: Probably all the ones that were members of the Coalition of High Growth Communities. Okay. Ms. Kirkman, do you still have questions on the build-out?

Ms. Kirkman: Yes I do.

Mr. Fields: Okay. I didn't mean to derail; I'm sorry.

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Ms. Kirkman: That's okay. So, if I understand the conservation that was just had, if anything the TND will need to be amended in some way to increase the allowable residential density up to twelve units per acre for multi-family. Is that...

Mr. Harvey: That may be the case. I think a lot of it's going to depend on the evaluation that we get from our consultants to see whether that complies with the standard of the State Code.

Ms. Kirkman: So, again, getting back to at least in prior Comprehensive Plan drafts, the notion of the build-out was to understand what the maximum exposure of the County was under the Comprehensive Plan. So it does seem like ten units per gross acreage seems to be... I mean, that's more than double what the number that's been used here. And so the potential build-out could be far greater than what's listed in this table. And so I'm quite concerned that the number of four units per acre was used rather than what we have in our TND which is ten units per acre.

Mr. Zuraf: Well, in response to that, I guess if this is truly to reflect what's identified in the Comprehensive Plan, our Comprehensive Plan, as drafted now, does set targets within each Urban Development Area for a certain number of units. So, applying a ten dwelling unit per acre density, although that will give us the apples to apples comparison with the prior version of the plan, it's going to give you a dwelling unit number that's going to far exceed what is actually recommended in the Comprehensive Plan.

Ms. Kirkman: Well, I am interested in the apples to apples comparison and, related to that, in the prior build-out all of the density calculations did not exclude resource protection areas. And I notice the acreage in resource protection areas has been excluded from all of the build-out analysis. And what is the thinking behind that?

Mr. Zuraf: It did not exclude it in the previous...?

Ms. Kirkman: No it did not. So, for instance, in the agricultural areas we used a build-out figure of 4.5 acres per unit. And the reason why we were using 4.5 rather than the three in the Code was things like RPA.

Mr. Zuraf: Right. Yeah, that probably should be re-evaluated... yeah, the 4.35 should apply to everything including the RPA. So that should be amended.

Ms. Kirkman: And the same issue in the Urban Development Areas, the way the TND is structured the units per acre is calculated based on the gross acreage, not net of steep slopes or RPA or any of those things.

Mr. Zuraf: But in the suburban area, though, applying a three dwelling unit per acre density is not going up above and beyond like we are with the agricultural which the 4.35 is kind of that increase to account for RPA where, in the suburban areas, if we're using a three dwelling unit per acre density, that's just basically your maximum level and...

Ms. Kirkman: But that maximum level... when we get site plans or subdivision plans, the lot includes RPA. The size of the lot includes the RPA. So it's not as though that RPA is excluded from the buildable area. In fact, it is included; it attempts to exclude RPA from density calculations have been repeatedly struck down. So, I do think to get an apples to apples comparison we need to include the RPA rather than exclude it as it's been done with this build-out table.

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Mr. Zuraf: Okay.

Mr. Fields: But in current... because we changed that in 2000... the current requirement in the suburban residential zones, the R-1, 2 and 3, is a net density calculation, right? You have to subtract RPAs before you can get your allocated density, right?

Ms. Kirkman: I'm not sure RPAs...

Mr. Zuraf: RPA has wetlands, floodplains and steep slopes.

Ms. Kirkman: But not RPA?

Mr. Zuraf: Right. If there's an RPA there, you're typically going to get some sort of wetland... there's going to be some reduction because of the characteristics associated with it.

Mr. Fields: So there is... I mean, just be clear there is a net density calculation in effect in the residential zones.

Mr. Zuraf: Yes.

Mr. Fields: Right.

Ms. Kirkman: And since you, Mr. Chair you brought up the suburban, again, how is three units per acre picked given that you can get up to fifteen units per acre with a clustered multi-family?

Mr. Zuraf: That was identified as an average across the entire area where you're likely going to get a greater proportion of single-family detached and then a smaller amount of your higher density development. And that will exceed that three but we felt that across the board it would be a fair average to apply a three dwelling unit per acre density.

Ms. Kirkman: Based on?

Mr. Zuraf: Based on our best professional estimates and...

Mr. Fields: Some subdivisions are less if they're not clustering or because of different... sometimes some R-1 subdivisions are one acre lots.

Mr. Zuraf: A lot of them will be one and a half units per acre.

Mr. Harvey: And with the current draft of the Comprehensive Plan, the suburban areas we are trying to more so address form, that the buildings are going to be low rise; they're going to typically have more yard space around them. That's why we recommended three units an acre. There would be some flexibility where some projects would probably be higher density and that some will probably be lower. But that's a milestone to gauge against as we go forward with the Comp Plan.

Ms. Kirkman: So, this is actually a question for the County Attorney. I know that there's an Attorney General's opinion, I think within the last month or so, that said inadequate public infrastructure is not a reason for denial of a rezoning application which, I think, leaves us with compliance with the Comprehensive Plan. And so if... and whether or not the rezoning application is compliant with the

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Comprehensive Plan... and so if an application comes in, in a suburban area which corresponds with the zoning district that has up to fifteen units per acre with multi-family clusters and the application is for exactly that kind of development, is there any legally defensible grounds to, given the AG's opinion, is there a legally defensible ground to deny that rezoning request? And I know you can't answer that right now, you'd have to look into it, but that's my question.

Mr. Smith: Yeah, I will look at that AG's opinion. I don't think I'm familiar with the specific one that you're referring to but I'll look for it and get back to you with an answer.

Ms. Kirkman: Because my concern is that if we say, you know, two-thirds of the County or a third of the County is now suburban and that corresponds with these zoning districts, then do we have any basis for... you know, if the first application is fine, the second may be fine but at some point we may get so many applications for high density. And I'm concerned there may not be a basis to deny those, if it's on our Comprehensive Plan.

Mr. Fields: I would, just briefly, we need to stay focused I agree. Ms. Kirkman, just from points of amplification, and I double-checked that too, I believe and I share your concerns, but I believe the opinion was the Attorney General said the adequate public facilities cannot be the sole basis for denial. But I don't think he excluded it as a basis for denial.

Ms. Kirkman: Well, if we can get clarification on...

Mr. Fields: The (inaudible) between those two and its relative merits are pretty important. So, on build-out are we done? Oh, I had a question, since we were actually getting the numbers. So, on the agricultural areas did you use... you subtracted resource protection areas and then so did you do one per three acre on the net acreage or did you do 4.53 on the gross...?

Mr. Zuraf: That was the 4.35 acres per dwelling unit.

Mrs. Bullington: Correction, that was 4.62, like...

Mr. Zuraf: As done previously.

Mrs. Bullington: Yes.

Mr. Fields: And that number is simply a running average of what's been approved as site plans over the last few years, right?

Mr. Zuraf: Yes.

Mr. Fields: Taking into count drainfields. And that was on the net acreage or the gross acreage?

Mr. Zuraf: That was on the net acreage.

Mr. Fields: So it was on the seventy-six five?

Mr. Zuraf: Well, it's not going to equate right to the seventy-six five because from you're excluding existing dwelling units and approved subdivisions and so some smaller number.

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Mr. Fields: So, once again, 4.62 is a calculation that includes the aggregate kind of total including exclusion of resource protection areas, particularly on large lots you're going to have those. But yet you're applying this to a net acreage number which it's really a gross acreage number, isn't it? Isn't it? Because the 4.62 was not derived by subtracting unbuildable areas and then coming up with the average lot size excluding RPAs because...

Mr. Zuraf: Yeah, the 4.62 is based on the gross area.

Mr. Fields: The gross area. So I think, once again, we would think that if we're doing gross area for the suburban and urban, we probably want to do gross area for the ag. Does that make sense?

Mr. Zuraf: Yes.

Mr. Harvey: So, Mr. Chairman, just to clarify on the table, are we looking at ten units an acre for the density?

Mr. Fields: Well, I think we want to make sure... what we're trying to do is make sure that the previous plan and this plan are going apples to apples for the UDAs. And if the other plan, the previous plan, I guess, and this is open for discussion, I guess my assumption is if the UDA density in the December 2008 plan was ten per acre gross acreage then we would want to see the same calculation at least for comparison sake. Even if there's a philosophical reason to advocate that that may not be the right calculation, we want to see the calculation or else we don't really know what we're looking at.

Mr. Rhodes: Mr. Chairman? Does the term build-out have a definition to it, a typical expected definition to it in the planning community? When we use the term that this is a build-out, long term build-out, it reads I think in a very basic sense without some sense of definition as this is what we're really expecting; this is what we project and expect. And what we're really developing is probably a much higher end than will likely ever occur. So, I think if there's a clearer definition that can be added that might be helpful, otherwise I might suggest if we use this for anything we have some other qualifier or title on it that better represents what the information is.

Mr. Fields: It's possible; I think one way I guess you see these things done right is you have multiple scenarios but at least you're doing apples and apples, right. Here's the build-out from a technical perspective given this is the permitted uses, this is the permitted density in this land use category, here's how many acres are available under this land use category; therefore, technically you could see this many units. I mean, certainly that's a mechanical iteration of the Code that makes sense if it's done logically apples to apples. But it certainly makes sense probably... I mean, I can see the pragmatic value in having here's the technical build-out and here's a couple of scenarios assuming different layers of a trend analysis from past performance to the future. I do know that unexpectedly building out over-zoned areas is exactly how all the high growth counties in Virginia got to be high growth counties. So, I will offer that back in the '70's and '80's when they zoned the staggering number of residential units in Stafford, they were not acknowledging that those could all be built out; they said it'll never happen. So, by not doing that technical build-out, I would say that the high growth communities did find themselves caught short.

Mr. Rhodes: But I would also submit, Mr. Chairman, that even under this build-out, this build-out is representing all the acreage. You drive around, all the acreage is not built out. So, it is a representation that is much higher than we will ever see, and so I just think that to the degree we use

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this for anything, we ought to make sure it's clear and understanding what it's representing. When I read long term build-out, I read this is what they're expecting.

Mr. Fields: Well, certainly, I think if you have a permitted density, you have to certainly do at least one iteration that takes you numerically out to where you end up, acknowledging that there's many forces that work there over time.

Ms. Kirkman: Mr. Chair? For clarity sake, I'd be perfectly... I would suggest that what we do is call it the maximum potential build-out. Because that's what it is, it's the maximum, it's the potential.

Mr. Fields: Right. Actually Mr. Rhodes' question, and if Mr. Harvey or Mr. Zuraf want to speak, is there sort of a standard practice in the planning community on what the term build-out is or how it's used or how it's applied? I assume it kind of depends on what your objectives are, right?

Mr. Zuraf: Right; I don't think there's one clear cut definition that I'm aware of and it's just whatever the purpose is. And I think all along in this process the build-out has been meant to identify, as Ms. Kirkman stated, what the maximum full potential could be. If every...

Mr. Fields: Yeah, if every available unit that were permitted under the zoning laws were allowed to occur.

Mr. Harvey: Mr. Chairman, if the Commission would like, we will change the title and we can also put a footnote further explaining what the document is.

Mr. Fields: I think that's important. I think it's important to have the maximums but it's important to make sure that everybody understands what a maximum number is.

Mr. Mitchell: Mr. Chairman, I understand your situation or your presentation. Again, assuming maximum build-out, I just don't see a bunch of developers rushing down here right now in a recessionary year with unemployment running 9.5 percent across America, fourteen percent in Las Vegas. I suspect Detroit is probably sixteen to eighteen. I just don't see the development community rushing down to Stafford... hey, we've got a bunch of lots down there, we're going to fill them up... in the ten years. I see it as a... you know, a build-out is a mass exodus of developers from other counties to here to fill up all the lots. I don't see that happening. To me it's a worst case... you know, it's what do you do when the nuclear bomb falls. It's worst case scenario. So I think it needs to be described distinctly that this is a maximum worst case effort, not what we actually expect. Because I haven't seen anything major in the past year or so come through as far as, and I don't anticipate it, especially with the banks not lending money.

Mr. Fields: Certainly. Alright; can we move on to number 11?

Mr. Zuraf: Okay, number 11 came about with the concern expressed with the generalized suburban area in the Land Use Plan and I guess concerns with more of the locational descriptions within the plan regarding higher density residential development. So staff was requested to kind of provide the definition of what a collector road is because the plan recognizes that higher density residential development in suburban areas would be allowed along collector roads. And so, within the County's Transportation Plan it provides a definition of collectors and that states, and I'll just kind of read the intro, that they are designed to carry lower speed traffic between local and arterial streets. Major collector roads are designed to carry traffic volumes in excess of 10,000 vehicles per day. And then

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the definition continues on with several standards regarding the right-of-way and design criteria. And for reference, the Transportation Plan does include then a list of collector roads in the back towards the back of the document.

Ms. Kirkman: So, I had asked that question because I was concerned, you know, again, when I expressed the concern about so much area being put in the suburban land use designation that one of the responses was that well it can't all be built out because it's not all next to a collector road. So, there's collector roads and major collector roads, which are two different types, is that correct? Or are there only major, because this definition seems to extinguish between the two?

Mr. Zuraf: Well, the way it's described in the Transportation Plan I think it only talks about collector roads.

Ms. Kirkman: Okay. So, basically collector roads are anything... are the roads between the smaller roads within a subdivision and then the larger roads? Is that what a collector road is?

Mr. Zuraf: Generally, the roads that are going to serve the subdivisions and then provide access out to maybe the major arterials. Like, for example, the Austin Ridge Drive is a collector road. There's another... Onville Road is identified as a collector road, Berea Church Road, Forbes Street; so roads such as that.

Ms. Kirkman: So, it's most of the roads in the County, is that correct?

Mr. Zuraf: I wouldn't say most of the roads.

Ms. Kirkman: So, we're saying that residential development in the suburban area has to be located to one of most of the roads in the County.

Mr. Rhodes: I didn't hear anybody say that.

Mr. Fields: No, I don't think that Mr. Zuraf is saying that most of the roads...

Mr. Zuraf: I'm not saying they're most of the roads.

Ms. Kirkman: Oh, I thought you said that. I'm sorry.

Mr. Fields: No, he said "I wouldn't say most of the roads".

Ms. Kirkman: I didn't hear the "I wouldn't say". That's why I'm trying to understand what these collector roads are.

Mr. Zuraf: It sounds like maybe we should map them out. It might be a good idea.

Ms. Kirkman: That would be really helpful, yeah.

Mr. Zuraf: Just to get a better idea.

Ms. Kirkman: Because that seems to be such an important part of the location criteria.

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Mr. Zuraf: It's an extensive list but a lot of the roads identified are in rural areas which are not going to be included and subject to that.

Mr. Fields: I think there's a little bit of a, from looking at things from the Transportation Committee, I think you realize too that there's sort of what collector roads in a perfect world look like and what function is collector roads, even though that's part of the problem we have is that roads that are functioning as collector roads whose design standards are not up to what they need to be. So, maybe mapping functionality I guess would be good. Do we have a collector of volume vehicle trips per day definition of a collector road?

Mr. Zuraf: Well, in a major collector road it identifies in excess of 10,000 vehicles per day, but I'm guessing there's probably some other standard for something that's not a major collector road but it's not stated in our plan.

Mr. Fields: Okay.

Mr. Harvey: Yes, Mr. Chairman, I believe the VDOT standard is collector roads carry more than a thousand trips per day.

Mr. Fields: More than a thousand trips...

Ms. Kirkman: More than a thousand? Okay.

Mr. Fields: Okay. Alright, number 12, regarding Crow's Nest.

Mr. Zuraf: Yes, this was a discussion of the changes to policy 3.7.2 which limited the area of Crow's Nest Peninsula that would be protected. And there was a motion to revert to the original language in the prior versions of the plan. And staff was requested in response to that discussion to provide data on the difference in the amount of acreage designated for park on Crow's Nest between the 2008 plan and the 2010 plan. The 2010 plan, the area designated is 2,834 acres and in the 2008 plan it was 3,745 acres, or approximately 911 acres more than what is designated now.

Mr. Fields: Is that 911 acres Crow's Nest Harbor? Is that the difference between the two numbers?

Mr. Zuraf: Well, yeah, it goes all the way to Brooke Road but whether it includes Crow's Nest Harbor I'd have to check the map.

Mr. Fields: While you're doing that, does the 2,834 number represent what is currently being discussed for purchase by the State? Or is there still some difference between... the initial purchase was what, 1,700 acres, is that correct?

Ms. Kirkman: And the second purchase has been completed.

Mr. Fields: It has been completed. Is the first and second purchase, is this what the 2,834 represents? Do you know?

Ms. Kirkman: I do. But you asked staff, and I've already been reprimanded.

Mr. Zuraf: The latest version of the parkland includes Crow's Nest Harbor.

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Mr. Fields: The latest version, I'm sorry, of the...

Mr. Zuraf: The latest Land Use Plan. Crow's Nest Harbor is within the recommended parkland.

Mr. Fields: Is that the 2,834 or 3,745?

Mr. Zuraf: That is the 2,834.

Mr. Fields: Okay. So the 2,834 represents the two purchases by the State and Crow's Nest Harbor?

Mr. Zuraf: Yes.

Mr. Fields: Okay. So the 3,745 is in addition to all of that.

Mr. Zuraf: Yeah, the 3,745 continues to the west to Brooke Road.

Mr. Fields: And the 3,745 represents the initial boundary by the Federal Fish and Wildlife?

Mr. Zuraf: It was a recommendation within a report from them.

Ms. Kirkman: May I provide one clarification to that? The original recommendation actually included 4,800 acres I believe it was, but that included some acreage north of Brooke Road which has since been developed. We call it Crow's Nest North; it's often referred to as Poplar Hills.

Mr. Fields: Got it. Alright, anything else on that? Number 13?

Mr. Zuraf: Thirteen was discussion of a previous policy, 3.1.5, which was recommended to be deleted. It was regarding some transportation management strategies and it was stated concern about the ability to implement that policy. So, in response to that, staff was requested to try to revise the policy to try to get more specific and include a list of potential strategies that may be recommended to get more specific. And then also include some sort of threshold to when this would apply. And so we've revised the policy, included some specifics; we also, as far as the thresholds, we've proposed in the policy that the policy would apply to residential and non-residential development proposals that conformed and met requirements to submit traffic impact analysis under VDOT criteria. That would imply that it's generally going to be a larger project that might have greater traffic impacts and thus the need for some measure of transportation management strategies. And likely it would be a situation where it would be a development that would be coming through for a rezoning where it could actually possibly ensure some way that these strategies would apply.

Mr. Fields: Okay.

Mr. Zuraf: I don't know if anybody has any comments on this because it was just staff throwing it out there.

Mr. Fields: Okay.

Ms. Kirkman: I was just wondering if the Commission would consider adding to the list of strategies something regarding the provision of shuttle buses to transportation nodes.

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Mr. Fields: That certainly seems reasonable to me. We're just listing all possible ideas, correct? I mean, that's really what you're doing with this; possible strategies. Any other comments on this one? Alright, number 14.

Mr. Zuraf: Would we need a recommendation and vote for incorporation of this to bring this policy back as written?

Mr. Rhodes: I think we would, but I would suggest we do that not tonight.

Mr. Fields: Okay; wait till we get all seven people?

Mr. Rhodes: Yeah, when we have everybody here and when we're going to hear some more information on the 1st, etcetera.

Mr. Fields: Okay. I'm fine with that. Alright, number 14.

Mr. Zuraf: Fourteen was the discussion of revisions that occurred to policy 4.8.4 which regarded noise disclosure for properties within Military Impact Zones. And County Attorney staff was requested to research the legal authority of requiring noise disclosure documents to be provided to potential purchasers.

Mr. Smith: Hopefully you all received the memo that I emailed earlier this week or last week. I'd be happy to answer any questions you may have.

Mr. Fields: Are there any questions regarding this item? Ms. Kirkman?

Ms. Kirkman: I have two. The first is did you research whether or not any other localities have found a legal way to require disclosures of any sort? I know one that was discussed around another project was disclosures regarding location adjacent to a landfill or disclosure being in an airport flight zone. So, did you research whether other localities have found a way to require disclosures?

Mr. Smith: No, I didn't do any research on other localities regarding this specific type of disclosure or disclosures more general.

Ms. Kirkman: Or similar types. Yeah, that might be helpful. And then the other question is if in fact there is not the legal authority to require disclosures, can we put in as a policy that under rezonings that the applicant should proffer the disclosure and under conditional use permits regarding residential or mixed use developments that they County should impose a condition regarding disclosure. If you could look into whether or not we can do those things.

Mr. Smith: Yes, I'll look into those.

Ms. Kirkman: Thank you.

Mr. Fields: Alright, any other discussion on number 14? Number 15.

Mr. Zuraf: In item 15, it just recaps and provides you the version of the revisions to several policies under objective 3.1 as you agreed to them at the last meeting. That basically summarizes the Planning Commission issues. We did provide you some additional information tonight at your desk. We

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provided some more detailed UDA analysis that was a product of some of the Board of Supervisors discussion from their work sessions where they wanted to really kind of get down to what the minimum area needs are within the Urban Development Areas based on what is being recommended in the Comprehensive Plan. So we provided a table that provides you that detail for every single, all of the nine Urban Development Areas. And then we did provide a second analysis that's more of a countywide general UDA analysis that was requested for us to follow the formula that was presented at this CPEAV Conference that I attended in July where they discussed the Urban Development Areas. And one of the Urban Development Area consultants that's working with VDOT, they went through a presentation and how they would determine the number of acres needed. And so we provided a countywide estimate based on three different alternatives; a low, medium and high density alternative as it relates to residential. And then with commercial the way it was projected at the seminar was that they used an estimate of a need of sixty square feet of commercial space per resident. And so we applied that ratio which is much lower than what we kind of have in our projections, in our recommendations, in the plan. So, that's in there for comparison purposes. And also you received the memo from Quantico as was discussed earlier. And also we did provide you a copy of all the handouts from the presenters at that CPEAV Conference. It's pretty good information about Urban Development Areas. And then also they had a presentation on Transfer of Development Rights and a presentation from Frederick County, Virginia, which is the only locality in Virginia that actually has adopted an ordinance on Transfer of Development Rights. And so they actually have it codified and they're waiting for the first transfer to occur. That's all I have.

Mr. Fields: Okay, very good. Are there any other questions? We're waiting now I guess the new developments pursuant to yesterday's Board meeting, the new layers that we're working through on that, right?

Mr. Zuraf: And to find out when a possible joint meeting might be held.

Ms. Kirkman: I just wanted to thank staff for the additional analysis you did. That's very good work. Thank you.

Mr. Zuraf: Thanks.

Mr. Fields: Okay, I think we've... anything else on that? Are we moving on now? Very good. Okay, Planning Director's Report?

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. Yesterday the Board was pretty busy with regard to land use items that potentially affect the Planning Commission. They referred three Ordinances to the Commission; Ordinance O10-47 would change the process for paving waivers and also travel lane waivers. That process currently requires it to be sent to the Board of Supervisors for approval. The proposed Code amendment would make it an administrative approval. This is part of a recommendation, as well as the other two Ordinances, that we've handed out at your desk, from a subcommittee of the Board that's focused on fees in a development process. Their focus has been taken right now a look at some of the processes that we have that are either legislative or discretionary approval that possibly could be streamlined into an administrative process. Likewise, Ordinance O10-48 would eliminate preliminary site plans. And O10-46 would change the process for Private Access Easements; instead of being a Planning Commission discretionary approval, it would make it an administrative approval. The Board also approved the... I should back up. I guess staff would like to request a timeframe when you think any of these should come up for discussion prior to authorizing a

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public hearing. Since we're focusing on some of the Comp Plan discussion on September 1st, should we consider sending these for discussion on the agenda for the 15th?

Mr. Fields: It's likely now we're not going to have the public hearing on the Comp Plan on the 15th, right?

Mr. Harvey: That's correct. It will be October.

Mr. Fields: So, let's get started on the 15th; that sounds good.

Mr. Rhodes: Good.

Mr. Harvey: Okay. Also, the Board approved the B & J Auto Sales CUP amendment. They adopted the Ordinance that allows nonconforming residences to expand provided that they're not violating a setback. That previously required a special exception; now that will be done through the administrative permit review process. They changed the Ordinance defining minor amendments for rezonings, conditional use permits and site plans and also established the fees for those new application types. The fees will go into effect September 1st. They also adopted the Ordinance to reduce the time period for family subdivisions from fifteen years to five years. And the Board took up two items related to the issue of House Bill, I think it's 1520, regarding the Zoning Administrator and affirmative governmental acts. They changed the definition of who an administrative officer is and also created a definition of what constitutes a written order or action by the Zoning Administrator to constitute that potential affirmative governmental act. There was a discussion about the timeline for which the Zoning Administrator would be required to act on those types of determinations. Currently the Ordinance specifies the Zoning Administrator cannot act on a determination and has to wait at least thirty days from the time we send out notices to the abutting owners. The Ordinance proposal is to extend it to seventy-five days. That was deferred after considerable discussion. Also, the Board did discuss possibly working with staff and others to petition the General Assembly to become part of the George Washington Toll Authority; there was some discussion about what's being known now as the Stafford Parkway or Outer Connector/Berea Parkway and possibly using that toll authority vehicle as a means to work towards construction of that project. And also Mike had mentioned about working with the Joint Committee on the Comp Plan, and we're awaiting future dates as to when the Joint Committee meetings will be held. And that concludes my report.

COUNTY ATTORNEY'S REPORT

Mr. Fields: Alright. Mr. County Attorney?

Mr. Smith: No report Mr. Chairman.

COMMITTEE REPORTS

Mr. Fields: Alright. Are there any Committee Reports that we need to hear? We really don't have any committees doing anything right now. The Transportation Committee is trying to regroup in September. Mr. Secretary? I have no report because I didn't even quite realize I was going to be Chairman tonight, so you're in luck. Any other business that we have not taken up that any Planning Commissioner thinks we need to do? Yes, the approval of minutes. We have the approval of minutes of June 16th, 2010. Do I hear a motion?

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CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

June 16, 2010

Mr. Mitchell: Motion for approval Mr. Chairman.

Mr. Rhodes: Second.

Mr. Fields: Motion by Mr. Mitchell, second by Mr. Rhodes. Any discussion? All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? The motion passes 5 with 2 absent. July 7th?

July 7, 2010

Mr. Rhodes: Motion for approval.

Mr. Fields: Second?

Mrs. Hazard: Second.

Mr. Fields: Second, Mrs. Hazard. Alright, all those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Five with 2 absent. July 21st?

July 21, 2010

Mr. Rhodes: Motion for approval Mr. Chairman.

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Mr. Fields: Moved by Mr. Rhodes.

Mr. Mitchell: Second.

Mr. Fields: Second by Mr. Mitchell. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Alright.

Mr. Rhodes: Mr. Chairman, I would just like to note that we have no minutes awaiting approval.

Mr. Fields: Very good. We're all cleaned up.

Mr. Rhodes: She has caught up to everything that exists.

Mr. Fields: Yea! Good job! Alright, thank you all very much and we'll see you in September.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:55 p.m.

Gordon Howard, Chairman
Planning Commission